

ANNEX 1

1. When a claimant makes an application for revision (by whatever method of communication) will a written acknowledgement letter be issued?

DWP will not routinely issue a written acknowledgment when a claimant applies for a decision to be revised. I understand that you have previously received information from the Department to the contrary and I apologise for that. This, of course, does not mean that we will be dilatory in dealing with applications. As we have said all along, we will deal with each application on its merits but without delay.

2. How will DWP deal with a dispute about whether an application for review was made? Will a recording / transcript of the relevant telephone call be made available?

In common with most telephone calls from claimants, calls during which they apply for a decision to be revised will not be routinely recorded. Should a dispute arise over whether a telephone call or a written application, as appropriate, was made, then, as with any other such dispute, a decision maker would gather as much evidence as he can and decide on the balance of probability.

3. How will DWP deal with applications made by a third party on the claimant's behalf (particularly if not made in writing - i.e. by a relative over the phone)?

Someone other than the claimant may contact DWP with a view to applying for a decision to be revised subject to normal rules about establishing that the claimant has provided authorisation or consent. Where the claimant is capable of handling their own affairs it is preferable that they are fully involved in explaining the reasons for disagreeing with the decision and responding to questions asked by the decision maker.

4. Will the ESA claim be closed on the IT system as soon as the WCA decision has been made so that a claimant can make a new claim for JSA as soon as they receive the WCA decision?

ESA staff are advised to terminate the award on the IT system on the same day as the decision is made, and the IT system has been improved to speed up the completion of termination actions so that the JSA claim can be put on the system the day after the ESA award has been terminated.

5. If the ESA claim has not been closed on the IT system does that mean an online or 'phone claim for JSA will not be accepted?

If the ESA award has not been terminated on the IT system at the time of making a claim to JSA, this does not prevent a person from making a claim. All claims to JSA made within a month of the previous claim for ESA are taken by phone using the main benefits claim telephone number: 0800 055 6688.

6. Will the new claim be processed in time to ensure that the claimant is paid JSA at their next "payday" and will not be required to request a Short Term Benefit Advance to cover any delay in processing their new JSA claim?

If the claimant provides all the required information for their claim to JSA, it can be processed straight away and in the majority of cases this means it will be in time for their next benefit week ending (BWE) or "payday".

Claimants will normally receive their first payment of JSA 3 working days after they have attended their New Jobseeker's Interview (NJI) or after attending the Jobcentre for their first fortnightly 'signing-day', if this falls after their NJI. Their fortnightly signing day is on or after their BWE, which is determined by their National Insurance number.

The question about Short-Term Benefit Advances is answered below.

7. Will the new JSA claim require the claimant to provide all of the relevant evidence to support their new JSA claim or will the "claim builder" be able to "transfer" information from the "old" ESA award?

If the claim to JSA (income-based) is made within one month of the end of their award of ESA (income-related) and the claimant has had no other change of circumstances, their claim to JSA can normally be processed and determined quickly. They should not have to provide any further evidence to support their claim as this will already have been gathered for the purposes of the ESA claim.

There are certain circumstances where currently we cannot use the existing claimant information held on their claim to ESA. This is where they had been in receipt of contribution-based ESA, are under 18, a potential joint claim couple or they are not a UK national. In these cases a full JSA claim gather is required.

8. Will such new JSA claimants be offered a STBA if it is clear that their JSA claim cannot be assessed and paid in time?

Claimants who are in financial hardship can request a Short Term Benefit Advance (STBA) before their claim to JSA has been determined: it is not automatically offered to them. Where claimants indicate that they are in financial hardship, they will be taken through the STBA application process to determine whether they meet the qualifying conditions for an advance of benefit.

9. Will the claimant be expected to attend interviews with a personal adviser and complete a jobseekers agreement /claimant commitment while their application for revision is determined?

Yes. As a condition of entitlement to JSA, all claimants must attend a New Jobseeker's Interview, where they must agree to a Jobseeker's Agreement or Claimant Commitment, whichever is applicable.

And in order to show their continuing entitlement, they must attend their fortnightly signing days and any other interviews they are instructed to attend.

10. Will the relevant LA be notified that ESA claim has been closed, a new claim for JSA (or IS) has been made and that a mandatory revision has been requested to ensure continuity of "passported" entitlement to HB and local council tax benefit scheme?

After a person has been awarded JSA (income-based) and they have indicated that they wish to claim Housing Benefit, the Department will inform their Local Authority that they have an award of an income-based benefit. This will help the Local Authority determine their entitlement to Housing Benefit. For help with their Council Tax from 1st April 2013 a person must apply directly to their Local Authority for a Council Tax Reduction.

Local Authorities are notified when awards of income-related benefits finish for Housing Benefit. It is possible that this information may also be used by local authorities in connection with their local council tax reduction schemes where relevant.

11. How quickly will the revision application be processed and determined by a decision maker?

There are no plans to introduce a timescale for completion of the consideration of revision process however, the process will be monitored to avoid any unnecessary delays. The time it takes to complete the process will vary depending on the circumstances of the case.

Where the application surrounds a decision which embodies a determination that, following the application of the Work Capability Assessment, the claimant does not have limited capability for work, then, if no further information is needed and the case is straightforward, the revision process could be completed relatively quickly. We might reasonably expect this to take around 14 days in normal circumstances. However, it could take longer. If further information is needed, for example, DWP has to give people one month to provide it and this may be extended further at the decision maker's discretion.

12. If the decision on revision is that the decision is revised and the claimant has "limited capability for work" how quickly will that decision be implemented and ESA (with any arrears due) be implemented?

If the revision decision is that the original decision is revised in the claimant's favour (they did have "limited capability for work") how quickly will the original award of ESA be re-instated (as there would be no requirement to make a "new" claim for ESA in such cases).

If a decision is revised and it has now been decided that the claimant has limited capability for work, ESA (with any arrears due, less any JSA paid in the interim) will be put back into payment as quickly as possible after the revised decision is made. The necessary details will be emailed to the relevant team to enable the decision to be implemented.

13. If the revision decision is made before the new claim for JSA is determined what action will be taken to ensure the JSA claim is fully determined and any arrears due are paid even though the claimant has re-claimed ESA?

Assuming the revision decision is in the claimant's favour, they will not need to reclaim ESA. The revision decision effectively restores the claimant to the position they would have been in had DWP made this decision in the first place. As per the previous answer, ESA (with any arrears due) will be reinstated as quickly as possible after the revised decision is made. If a JSA claim has been made but not processed by the time the revision decision has been made, the claimant will either be invited to withdraw their JSA claim – which can be done verbally- or receive a decision to the effect that they are not entitled to JSA because they are still entitled to ESA.

14. If the revision decision does not change the original decision in the claimant's favour a new claim for ESA will be required - is that correct?

Where, following the application of the Work Capability Assessment, a claimant has been found not to have limited capability for work, and this is confirmed at the reconsideration stage, it is not normally possible to re-award ESA in response to a further claim made within the period of 6 months following the disallowance, unless, since the disallowance, there is evidence of a deterioration in the claimant's health or a new medical condition applies. Jobseeker's Allowance will normally be the benefit to claim, though in some cases it may be possible to claim Income Support (for example because the claimant is a lone parent or a carer).

Where, subsequent to the revision decision, the claimant exercises their right of appeal against a decision that embodies a determination that they have been found not to have limited capability for work, they can become entitled to an award of ESA pending the hearing or other disposal of the appeal. No claim is required.

15. Will the new ESA claim be processed in time to ensure that the claimant is paid at their next payday and they will not be required to request a Short Term Benefit Advance to cover any delay in processing their new ESA claim?

Will the claimant be offered a STBA if it is clear that their new ESA claim cannot be assessed and paid in time?

As per the previous reply, where an appeal is made against a decision that the claimant has been found not to have limited capability for work, they can become entitled to an award of ESA pending the hearing or other disposal of the appeal without the need for a claim.

Payment of ESA will resume as soon as possible.

If the claimant is not appealing the ESA decision but re-claims ESA on the basis that there has been a deterioration in their health or a new medical condition applies, the claim will be processed as normal to establish whether there is entitlement to ESA. A rapid reclaim process is used where claims are made within 12 weeks of an earlier claim to reduce the number of questions and avoid unnecessary requests for evidence.

The normal rules about the availability of Short Term Benefit Advances will apply where a claim for ESA is made. It will be for the claimant to indicate an immediate financial need before potential eligibility is established. Where appropriate, an advance will be offered.

An advance of benefit may be available if the claimant can demonstrate that they are likely to be entitled to the benefit claimed; that they are in financial need, defined as “a serious risk of damage to the health or safety” of the claimant or their family; and that they can afford to repay the advance within the period required. Where an advance is not appropriate, the claimant will be signposted to other local support services.

16. Will the new claim require the claimant to provide all of the relevant evidence to support their new ESA claim or will the claim builder be able to transfer the information from the old ESA and JSA awards?

Where a claim is required that will need to be supported by relevant evidence. As per the previous answer, a rapid reclaim process is used where claims are made within 12 weeks of an earlier claim to reduce the number of questions and avoid unnecessary requests for evidence where possible.

No ESA claim is required where an appeal has been made against a decision that the claimant has been found not to have limited capability for work. However, if they have claimed JSA in the interim, they would need to relinquish their award, since the claim and award of JSA will have been lawfully made at the time. Where the relevant conditions of entitlement are met, an award of ESA pending the hearing or other disposal of the appeal will be made on the basis of the evidence which supported the preceding, recently-terminated award of ESA, taking account of any changes of circumstances reported by the claimant.

17. Will the relevant local authority be notified that JSA claim has been closed, a new claim for ESA has been made to ensure continuity of passported entitlement to HB and local council tax benefit scheme?

Whenever an award of ESA (income-related) or JSA (income-based) starts or ends, the Department notifies the Local Authority where Housing Benefit was also claimed. Where there is no break between the separate awards of benefit, it follows that the claimant's passported entitlement to full HB will be continuous.

It is possible that Local Authorities may continue to use such notifications for their Council Tax Reduction schemes where applicable. For help with their Council Tax from 1 April 2013 a person must apply directly to their Local Authority for a Council Tax Reduction.

18. Will the claimants be notified of the requirement to provide continuing evidence of limited capability for work (a "fit note") under the Medical Evidence Regulations pending their appeal [ESA Reg 30(2)(a)]. If the original decision now under appeal is a second or subsequent WCA decision (rather than a first WCA under a new claim for ESA) the claimant would not have been providing medical evidence because they would not be in the "assessment phase".

The requirement to provide medical evidence to support the award of ESA pending the appeal is included in notifications.

19. Will DWP check to see if medical evidence provided under the previous award of ESA is still current (i.e. the fit note has not expired)? - ESA Reg 30(2)(a) does not require "new" medical evidence to be provided if the old medical evidence is still current. This will apply where the decision under appeal is the first WCA decision and claimant was in the "assessment phase" pending that decision.

DWP provides guidance about checking to see that the claimant holds current medical evidence before requesting further medical evidence. It is not necessary for a claimant to provide a new "fit note" where the existing one has not expired in order to receive payment of ESA pending the appeal; but if the previous fit note expires during the period before the appeal then the claimant must provide another one.

20. It may be helpful to have figures for the average number of WCA 'found fit' decisions made each week for OX postcodes and against how many of those decisions claimants make a revision or appeal application in order to indicate the likely volume of ESA — JSA — ESA new claims and other issues mandatory revision will generate.

WCA outcome data is not available at postcode level.