

Diagnosis of claimant capability and circumstances

Summary

How to determine the issues that affect the work a claimant in the All Work Related Requirement group is expected to look for and accept if offered

Content

Diagnosing claimant work capability and capacity work-related requirements

During work search interviews, the work coach (WC) must identify issues that affect the work a claimant is expected to look for (and accept if offered) and use these to determine their requirements.

A claimant in the All Work Related Requirements (AWRR) group is normally expected to look for and accept any suitable employment paying the relevant National Minimum Wage rate that is within 90 minutes travelling distance from their home. A claimant is usually expected to look for full time work, or work in line with their agreed hours of availability, for example:

- work that is within 90 minutes travelling distance from their home (or 60 minutes maximum if they have a youngest child aged 3 or 4)
- they are available to attend an interview immediately (or within 48 hours if they have caring responsibilities)
- they can take up a job immediately (or within 48 hours if they have caring responsibilities)

A claimant's personal circumstances will determine the actual requirements set and a full diagnosis of their circumstances and capacity for work will help the WC determine:

- a realistic job requirement
- availability requirements
- travel to work time
- work search requirements including mandatory job applications

- work preparation requirements including Mandatory Work Activity
- any other work-related requirements

These should be reviewed and updated throughout the claim.

Claimants must understand:

- they will normally be expected to search for work for the number of hours they are available for work (this will be agreed with the WC depending on their circumstances so may be reduced due to any caring responsibilities or health conditions, but will not be more than a maximum of 35 hours per week)
- they need to take all reasonable steps to give themselves the best chance of finding work, more work or better paid work as quickly as possible
- that their work-related requirements have been set taking into account all of their relevant personal circumstances
- if they don't carry out their work-related requirements they will be sanctioned, unless they can show they had a good reason
- the date and time of their next appointment
- the consequences of failing to attend their Work Search Reviews
- where they have an unspent sanction from a previous claim, this will have an effect on the amount of Universal Credit they receive and any future failure to comply with requirements
- if they work and earn the required amount for 26 weeks, their sanction will be ended – if they have worked since the sanctionable failure, this could count towards their 26 weeks (the claimant should be asked their periods of work and

earnings and this should be recorded in the Work Services Platform (WSP) in 'Employment history' - see Initial Work Search Interview

Caring responsibilities

When setting a claimant's individual work-related requirements, the WC considers any caring responsibilities the claimant has, for example, childcare or any other relevant caring for a relative or family member. If alternative care arrangements need to be made to allow the claimant to attend a job interview or start work, additional time should be allowed for this (this means that the claimant would not be expected to be available for an immediate start).

The WC must look at the impact of caring responsibilities on the claimant's capacity for work, overall hours or specific times of availability, and tailor requirements accordingly. This may include:

- reducing their overall hours of availability (and the impact on expected hours where availability is reduced below the 35 maximum expected hours)
- specific caps that must be applied, for example if the claimant is the lead carer of children aged under 13, and
- using discretion to ensure the requirements set are reasonable

Reasonable hours of availability, work-related activities and travel to work time will be determined by the WC in discussion with the claimant - taking into consideration all the claimants circumstances.

A WC can consider reducing the expected hours of work for a lead carer who has one or more of the following;

- difficult travel time to a childcare provider, for example, poor public transport links when taking and picking up the child from childcare provision
- a health condition and the claimant is awaiting the health assessment

- lack of childcare availability in the claimants area that is suitable for the needs of the child

Tailoring of the expected hours of work and availability is required if the claimant has part-time or temporary caring responsibilities. This could be for an elderly relative or where a claimant has caring responsibilities for a child for whom they are not the lead carer, for example where claimants is separated or divorced. This does not apply to claimants who are full-time carers or have additional Universal Credit for caring in payment as they will be placed in No Work Related Requirements (NWRR) group and so are not subject to any work-related requirements.

Universal Credit expectations are that a claimant only needs commit to the number of hours that has been agreed with the WC which must be no more than the specific cap for their circumstances.

For further advice on setting requirement for lead carers of children, see Safeguarding and support for lead carers - case studies.

Lead carer for a child aged 3-4

For lead carers with a youngest child aged 3 or 4, there is a reduced expectation on hours of availability. This is capped at a maximum of 16 hours per week. The travel to work time for lead carers with a youngest child aged 3 or 4 should be proportionate to their expected hours of availability, up to a maximum of 60 minutes. For these claimants, the travel to work time or area is capped at the following:

- up to 10 hours expected hours of availability – capped at 30 minutes
- 10 to 16 hours expected hours of availability – capped at 60 minutes

They will not be asked to travel longer than this and depending on their circumstances (including childcare arrangements), and proportionate to the hours of work they can do, they may be required to travel less than the cap limits.

However, if a lead carer has good public transport links to childcare provision and to areas where there is work, the WC must consider maintaining the maximum 60 minute travel to work time for lead carers. See Setting work-related requirements.

Work coaches must ensure that they adjust the travel to work time in WSP from the default value of 90 minutes each way to the new agreed time, or 60 minutes – using whichever is lower.

For further information on setting requirement for lead carers of children, see Safeguarding and support for lead carers - case studies.

Lead carer for a child aged 5-12 (or an older child where the child has exceptional care needs)

Lead carers with a youngest child aged 5 to 12 are required to be available for paid work for as many hours as their caring responsibilities allow and which is compatible with these responsibilities.

If the child is at school, this will be the child's normal school hours (set at 25 hours), including the time it takes to travel to and from school. This must be set in discussion with the claimant, taking into account the number of children and/or schools attended and the cumulative total travel time to and from these to drop off and collect.

The WC should also consider whether the claimant does this every day at the same time or if this is shared with someone else. When deducted from the 25 school hours, this will give the lowest value to be used. The claimant can always opt to do more, but Universal Credit expectation is capped at a maximum 25 hours per week. This must be applied so that the claimant is not expected to do more than this.

For the lead carer of a child aged 5-12, the normal default of a maximum 90 minutes travel to work each way applies.

If the WC adjusts the claimant's work-related requirements, the adjustments must be reasonable and connected with the claimant's caring responsibilities for that child.

If a WC adjusts the claimant's work-related requirements for reasons not connected to the care of that child, they must be satisfied that they have reasonable prospects of getting paid work in light of these adjustments.

For further information on setting requirement for lead carers of children, see Safeguarding and support for lead carers - case studies.

Lead carer for a child aged 13 or over

Lead carers with a youngest child aged 13 and over are expected to be available for paid work for 35 hours per week. The WC can use their discretion to tailor this to meet their caring responsibilities.

For further information on setting requirement for lead carers of children, see Safeguarding and support for lead carers - case studies.

Carers for a person(s) who has a physical or mental impairment (under 35 hours a week)

Carers who have regular caring responsibilities (under 35 hours a week) for a person(s) who have a physical or mental impairment, are required to be available for paid work for as many hours as their caring responsibilities allow.

They may have their hours of availability adjusted at the WC's discretion taking into account their caring responsibilities. The claimant must have reasonable prospects of finding paid work, more work or better paid work.

Parents of a child who are not the nominated responsible carer, but have caring responsibilities for the child

A parent of a child who is not the nominated responsible carer, but has caring responsibilities for the child, is required to be available for paid work for as many hours as their caring responsibilities allow.

They may have their hours of availability adjusted at the WC's discretion taking into account their caring responsibilities. The claimant must have reasonable prospects of finding paid work, more work or better paid work.

Exercising discretion

In exercising discretion, the WC should consider:

- that a claimant is expected to do all that is reasonably possible to fit their caring responsibilities with the local Labour Market
- other care arrangements which may be available (including childcare)
- the impact of their caring responsibilities on the hours that they are able to work
- the care requirements of the individual being cared for

Health conditions

If a claimant has a physical or mental impairment which substantially affects their ability to carry out paid work, any work they are asked to look for should be reasonable, based on their health condition with any work-related requirements being adjusted accordingly.

This includes:

- whether work search and/or availability should be switched-off - see Health or Disability – work coach action from the first day of sickness , Health and Disability - claimant reports sickness, changes to sickness or a change of general practitioner or healthcare provider and Health and Disability - claimant reports a third or subsequent period of sickness in a rolling 12 month period
- claimants who are yet to have a Work Capability Assessment (WCA) are not expected to take up a job (be available for work) whilst they have a valid fit note - following a WCA decision, the claimant is normally expected to be available for work that is reasonable based on their health condition (work availability requirements still need to be switched-off if it is the first or second period of sickness within a rolling 12 month period, but usually for no more than the first 14 days)

If the claimant has a health condition which doesn't require a WCA referral or they have been found fit following a WCA but have a continuing health condition, their requirements may need to be tailored. See Health or Disability - claimant reports sickness, changes to sickness or a change of general practitioner or healthcare provider and Health or disability - referring a claimant to a Work Capability Assessment.

The WC should adjust the claimant's work-related requirements taking into account the:

- claimant's health condition
- regular treatment regime related to the claimant's health condition
- hours their health condition allows them to work

- type of employment their health condition allows them to do
- environmental conditions their health allows them to work in, for example lighting, background noise, dust
- impact of their health condition on their ability to travel

For example, if a claimant with a health condition states that they have limited capacity to stand and need to sit frequently, the WC would explore with them what they are able to do:

- can they sit without a problem?
- can they walk without a problem?
- what other skills do they have?
- how do they spend their day?

An example statement for the Commitment Pack would be: 'I am able to undertake work which does not involve maintaining one position for a prolonged period'.

If the WC adjusts the claimant's work-related requirements because of their health condition, the claimant does not have to have reasonable prospects of getting paid work. However, the adjustments must be reasonable and connected with their health.

If a WC also adjusts the claimant's work-related requirements for reasons not connected to their health condition, they must be satisfied that the claimant has reasonable prospects of getting paid work in light of these adjustments.

Other relevant circumstances

The WC must consider anything else (for example, legal restrictions) that could have an effect when setting the claimant's work-related requirements.

Some specific circumstances, for example drug or alcohol dependency or domestic violence, have an associated adjustment that must be applied to the claimant's requirements. See [Switching off requirements - Work Services Platform action](#).

In other circumstances, the WC must understand the impact of complex needs and apply a defined adjustment as above or use their discretion to tailor requirements to what the claimant is able to do at that particular time. See [Complex needs](#).

In circumstances where a claimant may require additional care or support, the WC can consider signposting them to relevant organisations that can offer suitable support or advice. See District Provision Tool.

Work coach consideration on receipt of the day 29 Work Services Platform task

The WC as part of the claimant's journey should have regular contact arrangements in place with them and a relevant Claimant Commitment.

The actions the WC must consider on receipt of the day 29 WSP task depends on whether the claimant is:

- terminally ill
- treated as having Limited Capability for Work (LCW) or Limited Capability for Work and Work Related Activity (LCWRA), or
- has reached the 28th day of sickness

The WC must also have regard to when contact was last made with the claimant and the current actions agreed as part of the Claimant Commitment.

The WSP task may only be treated as complete once the WC has fully ensured that the claimant has sufficient, relevant and current work preparation or work search actions on a suitable Claimant Commitment, and that ongoing contact arrangements are in place, if applicable.

The types of WSP tasks are:

- for claimants who indicate they may be terminally ill:
 - Target: Work Coach Task Team
 - Start: Immediate
 - Notes: 'Claimant reported sick from (dd/mm/yyyy). Claimant considered as terminally ill pending WCA outcome, claimant referred for WCA on (dd/mm/yyyy)'

- for claimants where Universal Credit has established they are 'treated as LCW/LCWRA':
 - Target: Work Coach Task Team
 - Start: Immediate
 - Notes: 'Claimant reported sick from (dd/mm/yyyy). Claimant considered as having LCW/LWCRA pending WCA outcome. Claimant referred for WCA on (dd/mm/yyyy)'
- For claimants who have reached the 28th day of sickness:
 - Target: Work Coach Task Team
 - Start : Immediate
 - Notes: 'Claimant reported sick from (dd/mm/yyyy). 28th day of sickness now reached. Claimant referred for WCA on (dd/mm/yyyy)'

Work Coach consideration on receipt of a Work Services Platform task from a decision maker advising the claimant has been awarded LCWRA

Following the WCA outcome, when the claimant is considered as having LCWRA, the decision maker (DM) creates a WSP task for the WC. When the task is received, the task notes will include: 'Following WCA outcome claimant is considered as having LCWRA'.

As part of the claimant's journey, the WC is likely to have had regular contact with them to support them in meeting their Claimant Commitment requirements. On receipt of the WSP task (confirming that a claimant has been awarded LCWRA), consideration should be given to previous engagement discussions to inform the approach the WC may want to take to any future offer of support.

Any future support provided to claimants found to have LCWRA is on a voluntary basis and the WC has discretion when offering this support (based on their previous engagement with the claimant). This includes whether the WC should make contact with the claimant to discuss any help or assistance available to them or whether an agreement may be suitable for contact at some point in the future.

When making this decision the WC must also consider that the DM will have independently contacted the claimant, as part of the overall WCA process. This will have been to discuss the LCWRA decision and to agree a generic Claimant Commitment for a claimant in the NWRR group and the contract type 'Too sick to Work', sub type 1a (LCWRA).

Skills

Claimants who do not have the skills that are valued in the Labour Market will be required to start, participate in and complete appropriate skills assessments or training.

The WC will conduct a skills screening to fully understand the needs and capabilities of the claimant. This will help the WC determine if their goals are realistic and if they require any additional support. This can be conducted as part of an Initial skills screening, or an in-depth skills assessment.

The initial skills screening determines if the claimant is lacking skills such as English language, literacy, maths or computer skills.

If the WC believes there may be a skills gap but confirmation is needed, they must be referred (for an in-depth skills assessment and/or careers advice) to an initial interview with a provider or direct to training.

All these referrals should be included as either work preparation (mandatory) or other work-related activities (for provision funded by the Devolved Administration in Wales and for Careers Advice in Scotland and Wales).