

ESA to JSA Transitions

Summary

1. The vast majority of claimants who have made a claim for Employment and Support Allowance are required to undergo a Work Capability Assessment. For claimants who previously claimed Incapacity Benefit, it forms part of the IB Re-assessment.
2. The assessment of a person's ability to undertake any work is undertaken by Health Care Advisor but the overall decision on capability is made by a Decision Maker, who has regard to a number of evidence sources.
3. Claimants who are assessed as capable of some work will have their claims to Employment and Support Allowance or Incapacity Benefit terminated and they may be required to claim Jobseeker's Allowance if they wish to continue to receive benefit. Please ensure you check claimants' postcode in FIND – they may live in a Universal Credit Full Service area, in which case they need signposting to claim Universal Credit.
4. Claimants moving from Employment and Support Allowance or Incapacity Benefit to Jobseeker's Allowance following the result of their Work Capability Assessment, have been assessed as capable of work or some form of work.
5. The ESA to JSA Transitions process is intended to speed up claims for claimants who are moving directly from income related Employment and Support Allowance (ESA(IR)) to income-based Jobseeker's Allowance (JSA(IB)) Form JSA1(T) is completed by the Contact Centre and emailed to the relevant Jobcentre's ESA to JSA transitions in box.
6. Claimants who attend the jobcentre to claim Jobseeker's Allowance within a month of an Employment and Support Allowance claim ending and refuse to telephone the contact centre, should be issued with a JSA1.
7. Some of these claimants will have already accepted that they should not remain on Employment and Support Allowance or Incapacity Benefit and many of these may have made the conscious effort to make themselves available for work. Others may still feel that they are unfit to work and may have submitted an appeal against the decision.
8. The purpose of this guidance is to support conducting Initial Work Search Interviews (IWSIs) for claimants who have transferred from Employment and Support Allowance or Incapacity Benefit to Jobseeker's Allowance.
9. It also advises how conducting an effective, diagnostic, work-focused interview helps claimants move forward into work and how to address any negativity or reluctance from claimants.

Sanctions

10. Sanctions that were applied to a previous Employment and Support Allowance claim cannot be transferred to a new claim for Jobseeker's Allowance.

Things to consider

11. It is important to remember that claimants do not 'pass' or 'fail' their Work Capability Assessment. They have been assessed by a medical expert and other evidence of capability is considered by a Decision Maker before being

directed to the most suitable benefit. Taking a positive approach will encourage, support and reassure these claimants.

12. Some people attending their first IWSI may not have worked for some time and may not believe they are capable of work.

13. The IWSI can be the start of the process of helping the claimant focus on what they can do rather than what they cannot do. It can help them to think about their abilities and skills and the type of work that may be suitable for them.

14. Not all claimants who have transferred from Employment and Support Allowance or Incapacity Benefit will require this level of support. The IWSI has to be flexible and adaptable to the individual claimant's requirements.

Claimant behaviour

15. The claimant may be apprehensive about 'being forced' to find a job. If they haven't worked for a long time, that can be very worrying.

16. Although some may also be angry, it is important to stay calm and professional and not get caught up in conversations that deviate from the IWSI.

17. There is no need or requirement to apologise for the outcome of the medical assessment and the decision. It was based on information from a medical expert and there is an appeals process that the claimant should be made aware of if they feel that the assessment is wrong. If the claimant is upset or anxious, they may well have more difficulty than usual in paying attention and retaining information. Time should be taken to explain things carefully and to ensure that they understand and can therefore participate fully in the interview.

18. On rare occasions, a claimant may threaten a 'worsening of their symptoms' or 'you will make me ill again', or similar if 'you' 'make them' claim Jobseeker's Allowance. Again, it should be explained that this decision was made by the Decision Maker, based on evidence supplied by a medical expert.

19. If necessary, the claimant should be advised to contact their doctor or other support professionals.

20. Access to a Disability Employment Adviser or Work Psychologist is also available.

21. Although suitable work and jobsearch activities may be found for claimants with health conditions or disabilities, under no circumstances should an opinion be expressed about whether that health condition means they are capable of work, or not. That decision has already been made by a Decision Maker, based on evidence supplied by a medical expert.

22. If the claimant says they are not fit enough to work, explain to them that while claiming Jobseeker's Allowance, they have to be actively seeking and available for work. If they do not feel that they can meet either of these requirements, or cannot agree the types of jobs they will look for and the activities they will undertake to do so, they will not receive Jobseeker's Allowance.

Vulnerable Customers

23. DWP deals with a wide range of customers who at some point in their lives may be vulnerable because of life events or disability.

24. The definition of vulnerability for DWP purposes is “An individual who is identified as having complex needs and/or requires additional support to enable them to access DWP benefits and use our services”.

25. The Individual vulnerable situations are described throughout the Customer Service A-Z and the Vulnerability instructions also contain further information about how to support these claimants.

Customers who directly declare, or whose behaviour indicates, an intention to attempt suicide or self harm.

26. This definition also includes claimants who may directly declare, or whose behaviour indicates, an intention to attempt suicide or self-harm.

27. It is possible claimants might say they intend to hurt or kill themselves at any point during any intervention we have with them and so it is important to know how to handle this situation.

28. Each office should have a localised version of DWP’s six point plan that sets the framework for managing these declarations.

29. It is very important that all staff are aware of their office’s six point plan and be able to follow it should the need arise.

30. The basic principles of the localised six point plan should be based on the following:

- take the statement to self-harm or suicide seriously;
- summon a colleague;
- gather information;
- summon emergency help if the claimant is considered to be at serious risk or in immediate danger; and
- review the incident.

31. More information about managing customer declarations of intent to attempt suicide or self-harm can be found in the DWP HR intranet pages.

Human Trafficking

32. Human trafficking is the fastest growing form of slavery today and is prohibited under international law, as well as under the criminal laws of the UK and other countries.

33. It can include movement of a person from one place to another into conditions of exploitation, including benefit fraud. DWP aims to identify and direct victims of human trafficking to agencies able to support them at the earliest opportunity.

34. Indicators for victims of human trafficking or slavery include:

- employed for no or minimal wages
- residing in communal accommodation
- identity document held by their landlord or employer
- applications for NINOs or benefits facilitated by a third party
- always accompanied by a third party who answers questions on behalf of the claimant
- groups of people of the same nationality whose entry to the UK and or employment seems to be controlled by a third party
- common mobile numbers or addresses from apparently unrelated individuals

35. There is no specific guidance for staff, but if you suspect a claimant may be a victim of trafficking, refer the case to the Fraud and Error Service via the desktop Fraud Referral icon.

36. Complete the referral in the usual way but select 'Identity Fraud' from the 'other offences' box, **providing as much detail as possible and specifying human trafficking.**

37. Further information can be found on the Human Trafficking Customer Service A-Z entry.

Conducting the IWSI

38. The IWSI should be conducted in the usual way, in terms of the actions that must be taken.

39. However, the claimant must be made aware of the implications of being in receipt of Jobseeker's Allowance and extra emphasis should now be given as to what the claimant is capable of doing, rather than what they are not capable of doing.

40. The focus must be on moving the claimant to become job ready by overcoming any things that would make it harder for them to find work.

41. The discussion should be used to find out if the claimant has any problems in each of the five major stages of jobsearch, which are:

- Getting Ready for Working
- Deciding a Realistic Job Goal(s)
- Finding Vacancies
- Obtaining the Job Offer
- Keeping the Job

42. If any problems are identified offer advice, support, or training to help the claimant undertake effective jobseeking across all five areas.

43. All of Jobcentre Plus' provision and support is aimed at some aspect of jobseeking effectiveness. Diagnosing the needs for better jobseeking will help to match provision to those needs.

44. The IWSI is conducted as normal, taking account of any health condition they may have.

Agreeing a Claimant Commitment

45. Account should be taken that some claimants may only have had limited contact with the labour market and the Claimant Commitment should be tailored to meet the claimants needs. Any health condition they may have should be taken into account but still remain realistic for getting them work ready.

End of interview action

46. Email the completed JSA1(T) to your Benefit Centres ESA to JSA inbox and send the signed copy to them by courier.

Please note: The email can be deleted from the ESA to JSA transitions in box when delivery has been confirmed.

Claimants who have appealed against the outcome of their Work Capability Assessment

47. Where a claimant has lodged an appeal against the outcome of their Work Capability Assessment, their rights to appeal should have been explained to them previously. This should have been initially communicated by a phone call from the Decision Maker and followed up with a letter.

48. If exceptionally, a claimant still maintains they are still uncertain as to their Employment and Support Allowance rights, or wants a further explanation of the Work Capability Assessment decision, arrangements should be made for a Decision Maker to contact the claimant by 'phone, to offer a further explanation of the original decision and advise on any outstanding potential appeal rights, or to consider any new evidence provided. Until it is confirmed that the claimant can receive ESA again they should continue with their JSA claim.

Claimant asks to be referred back to Employment and Support Allowance

49. During an interview, or a Work Search Review, the claimant may ask to go back on Employment and Support Allowance. This should only be considered if the claimant has a different illness or condition to the one they originally claimed Employment and Support Allowance or Incapacity Benefit for and has appropriate medical evidence to support this.

Ex Employment and Support Allowance or Incapacity Benefit claimant declares they are sick and unable to attend

50. Claimants who previously claimed from Employment and Support Allowance or Incapacity Benefit, who declare that they are sick and are unable to attend the Jobcentre should be treated no different to a normal Jobseeker's Allowance claimant. See the Labour Market Conditions guide for further details.