

# Freedom of Information request 4168/2013

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## Information request

*Notwithstanding that the introduction of Universal Credit, according to the Chair of the Works and Pensions Select Committee Ms Anne Begg, is proceeding "at a Snails Pace", I understand from a DWP Press Release<sup>1</sup> (reproduced within Appendix 1) that a "Claimant Commitment" (an underlying component of Universal Credit) will be implemented in October. Notwithstanding that claimants fully understand their obligations, commitments and responsibilities when negotiating, and signing, a Job Seekers Agreement, and must provide proof of their Job Search Activities for each and every occasion they sign on, and if they fail to do so, may be liable to a Sanction Doubt being raised, I am writing to request a copy of the pro-forma document which will be form the basis of the Claimant Commitment.*

*can you advise as to what date Wallsend Job Centre Plus Office are scheduled to arrange a meeting, whereby the Job Seekers Agreement will be superceded by the Claimant Commitment.*

*Given that Universal Job Match remains "Unfit For Purpose", with on the hand, candidates only being allowed to upload 5 CV's, and only make 1 CV at a specific time "Searchable", and on the other, Job Leads being indexed on the system not necessarily being "live job leads" (ie if, in order to apply for a job, candidates have to go to an external website - but when candidates visit the external website note that the vacancy does not exist), and in consequence, a candidate may be subject to a defacto Sanction Doubt if they cannot prove that they had applied for a Job Lead that they have been matched to (which did not exist in the first place), if when entering into a discussion over construct of the Claimant Commitment, a Front Line Adviser within Job Centre Plus asserts that claimants must create an account and must provide access to that account, please advise as to whether the issue may be referred to a Decision Maker for further consideration.*

*Given that, under the previous regime, candidates may have commenced part time training (which they declared to Job Centre Plus), and provided that Total Study Time was less than 16 hours per week, please advise as to whether this stipulation will change with the Claimant Commitment. In the absense of securing employment, I may commence part time Teacher Training via a PGCE.*

## DWP response

In response to your request to receive a copy of the Claimant Commitment that will be used for Jobseeker's Allowance claimants from October 2013 and any supporting advisory guidance. We believe the Department is not required

to disclose this information because the processes are still being designed and this is policy in development. Section 35 of the Freedom of Information Act refers.

**Section 35 (formulation of government policy etc)**

This policy is still being developed. The Department considers that the balance of public interest therefore weighs in favour of non-disclosure. This is because the Act acknowledges that good government depends on good decision making and therefore needs space in which to formulate policies based on the best advice available with full consideration of all the options. Ministers also need to be able to conduct rigorous and candid risk assessments of their policies and programmes including considerations of the pros and cons without there being premature disclosure which might close off other, better options.

We have not finalised the schedule for Jobcentres to start to introduce the Claimant Commitment and therefore, I cannot confirm when Wallsend Jobcentre Plus office will begin to use the Claimant Commitment.

DWP cannot require (through the Claimant Commitment or any other means) claimants to grant access to their Universal Jobmatch (UJ) account. Access to an account is purely on a consensual basis.

With regards to your final paragraph, the introduction of the Claimant Commitment in October 2013 for Jobseeker's Allowance (JSA) claimants will have no impact upon those people who commence part time study/training.

People who wish to study part-time while receiving Jobseeker's Allowance (JSA) may do so, as long as they remain available for and actively seek employment and are willing to rearrange or give up the course to take up employment. However, it is not strictly correct to say that a claimant can undertake a part-time course of under 16 hours per week.

The definition of a part-time course is dependant upon the way that a course is funded.

If a course is funded by the Skills Funding Agency (SFA), or equivalent in Scotland and Wales, it is classed as part time as long as the number of guided learning hours in no more than 16 hours per week. However if a course is not funded by the SFA, or equivalent, then the establishment providing the course will define the course as either full or part-time. If the establishment say the course is part-time that is how it will be treated regardless of the number of hours involved.

Information on JSA claimants and part time study/training is detailed within the Full Time and Part time Studies chapter of the Labour Market Conditions Guide, a copy of this guidance is attached.

## **Claimants participating in full-time and part-time study**

### **Introduction**

1. Claimants who undertake a course of full-time study or training are not generally entitled to JSA because they are not regarded as available for employment. If a claimant declares they are or have been a full-time student at the NJI take action as in Full-time student.
2. The only exception to this is if:
  - they are available for employment or treated as available in specific circumstances and want to claim during the summer vacation from their course, and
  - they are single or have a partner who is also a full time student; and
  - they or their partner, in the case of a student couple, are or are treated as being responsible for a child or young person.

**Note:** by partner we mean a person who is married, a civil partner of someone or living with someone as if they were married or civil partners.

3. Claimants who are participating in part-time courses of study or training or who meet the conditions in the above paragraph may be entitled to JSA provided they satisfy the availability and actively seeking employment conditions.

### **Definitions**

- Course of study;
- Abandoned courses;
- Employment Related Courses;
- Advanced Education;
- Full-time Students;
- Full-time Course;
- Learning Agreements;
- Part-time Students;
- Part-time Course;
- Intercalating students;
- Last day of the course
- Qualifying Young People

### **Course of study**

4. A course of study means any course of study or training.
5. A period of study means the period from the start of the course until the last day of the course or the day the student abandons the course or is dismissed from it, whichever is the earlier.
6. Where the course lasts for more than a year the end of the course is the last day of the final year of the course.

7. Any attendance at the educational establishment or any period of study connected with the course which is outside the dates of the course are also treated as part of the course.
8. This means periods when people are re-taking exams, including full academic years if appropriate, or doing revision for exams are part of the course.
9. For post-graduate if the course has finished but they are still writing their thesis, this does not count as part of the course.

### **Abandoned courses**

10. The term abandons refers to a total, final and permanent abandonment.
11. A course can only be classed as abandoned if the claimant has no intention of resuming their studies, and has actually taken enough steps to ensure that their connection with the course is permanently severed.
12. If a place on the course is being kept open for the student to resume at a later date the course has not been abandoned.
13. In cases of doubt, ask for documentary evidence from the educational establishment to confirm the course has been abandoned.
14. If a claimant is able to provide evidence from their former educational establishment which shows they have abandoned their course, then this can be accepted and a referral to the Labour Market Decision Maker (LMDM) is not required.
15. However, if a claimant cannot provide the necessary evidence then there is a doubt in their availability and a referral to a LMDM would be required.

### **Employment Related Courses**

16. An employment related course is any full time course which aims to enhance a claimant's job prospects. It can be for a particular occupation, for employment in general or for help in seeking employment.
17. Examples of these courses are training for a specific driving licence which would enhance prospects generally, training for a specific job with an offer of work if the course is completed successfully or a course which helps with writing CVs and job applications.
18. If a claimant wishes to undertake an employment related course they need to let us know and have it agreed by an adviser before the course starts
19. As long as completing the course would improve their prospects of employment you can treat the claimant as available and actively seeking employment and excuse attendance while they complete the course BUT only for a maximum of 2 weeks in any 12 months. The two weeks do not need to be taken together.
20. If the claimant wishes to undertake an employment related course which lasts longer than 2 weeks and it would improve their prospects of employment you can treat them as available and actively seeking employment for the first 2 weeks of the course only.
21. A 12 month period for this purpose should be calculated using the date the claimant will start the employment-related course. Check whether the claimant has already undertaken a course which used this easement within the previous 12 months.
22. For more information on Employment Related Courses see the Treated as available and Actively Seeking Chapter

## Advanced Education

23. Courses of advanced, further or higher education are education or training that is at a level above A level standard or equivalent.

24. A course of advanced education is a course leading to:

- post graduate degree or comparable qualification;
- first degree or comparable qualification;
- diploma of higher education
- Higher National Diploma(HND) or Higher National Certificate (HNC) of either;
- Business and Technology Council (BTEC) ;or
- Scottish Vocational Educational Certificate(SCOTVEC);
  - teaching qualification.

25. Advanced education is also any full-time course of a standard above that of:

- advanced GNVQ or equivalent
- an Ordinary National Diploma (OND)
- BTEC or SCOTVEC National Diploma or National Certificate;
- a General Certificate of Education (GCE) A level;
- a Scottish Certificate of Education (Higher Level) or Certificate of Sixth Form Studies;
- NVQ/SVQ Level 3, this is equivalent to a BTEC Nationals or A level.

## Full-time Students

26. A full time student is defined as someone who is:

- Undertaking a full-time course of study or training **and**
- not receiving a training allowance

## Full-time Course

27. The establishment providing the course will define the course as either full or part-time. If they say it is full-time that is how you should treat it regardless of the number of hours involved, unless the course is funded by either the:

- Skills Funding Agency (SFA); or
- Education Funding Agency (EFA)(YPLA); or
- Welsh Department for Children, Education, Lifelong Learning and Skills (DCELLS)

28. If the course is funded by any of these bodies, it is only classed as full-time if the course involves more than 16 guided learning hours per week.

29. If the course is funded by;

- Scottish Government Funding **and**
- involves more than 16 class-room or workshop based study; **or**
- 16 hours or less of classroom or workshop based study plus additional hours of structured learning so the total hours are more than 21 per week

it is a full-time course.

## Learning Agreements

30. A Learning Agreement is a document that sets out the hours of guided learning a student will be undertaking. In Scotland and Wales the document may not be called a Learning Agreement but the contents should set out the same information.
31. The Learning Agreement or similar document should include
- the name of the college or training establishment;
  - the student's personal details;
  - the title of the course being undertaken;
  - the level of the qualification to be achieved; and
  - the signature and position of someone acting on behalf of the college/training establishment.

## Part-time Students

32. A part-time student is a person who is attending a part-time course of study or training, and not receiving a Training Allowance.

## Part-time Course

33. The establishment providing the course will define the course as either full or part-time. If they say it is part-time that is how you should treat it regardless of the number of hours involved unless the course is funded by either the:
- Skills Funding Agency (SFA); or
  - Education Funding Agency (EFA)(YPLA); or
  - Welsh Department for Children, Education, Lifelong Learning and Skills (DCELLS).
34. If the course is funded by any of these bodies and involves 16 or less guided learning hours per week it is a part-time course.
35. If the course is;
- funded by Scottish Government Funding **and**
  - involves 16 hours or less of classroom or workshop based study; **or**
  - 16 hours or less of classroom or workshop based study and additional hours of structured learning up to a maximum of 21 hours per week;
- it is a part-time course.
36. If it is clear that a course is part-time the claimant may be able to receive JSA provided he continues to remain available for and actively seek employment and he is willing to rearrange or give up his course to take up employment.
37. If it is not clear that the course is part-time, you should either ask the claimant to provide a letter from the college/training establishment or check the website if one is available. Alternatively, if the course has been running for some time it may be well known that it is a part-time course and should continue to be accepted as such. Where a doubt remains on the nature of the course, refer the case to the LMDM.

## Intercalating students

38. Full-time students who take time out from their studies, in specific circumstances, can claim JSA. These are known as intercalating students.
39. The circumstances in which they are allowed to take time out of their studies are:
- When they need a break from studying full-time due to illness; or
  - When they are required to undertake caring responsibilities.
40. In these circumstances a full-time student can claim JSA from the time their illness or caring responsibility ceases until such time as they rejoin their course or the first day of the following academic year whichever is earlier. Such students should have the consent of the educational establishment which will confirm their status.
41. Their claim should be taken in the normal way and they are required to satisfy the availability and actively seeking employment conditions.

## Last day of the course

42. The last day of the course is the last day of the final academic term of the course on which the student is enrolled.
43. In some cases this will be a date after the student has stopped their studies, for example, they may not bother to attend after completing their exams.
44. A full-time student or former full-time student cannot be treated as available for work until the day after the last day of the course.

## Availability for part-time students

45. Part-time students are eligible for JSA provided they satisfy the normal entitlement conditions including being available for and actively seeking employment. They should also be willing to rearrange or give up their studies in order to take employment.
46. Their pattern of availability, set out in their Jobseeker's Agreement, must give them a reasonable prospect of securing employment.
47. There is however, a concession within the regulations for certain part time students, which relaxes the availability rules in certain circumstances. If this concession applies, **nothing** connected with the part-time course the claimant is doing is taken into account when considering their availability.
48. Nothing connected with the course of study or training should be taken into account when determining availability if the claimant
1. Has an agreed restriction in their availability because they;
    - are short time working **or**
    - have a physical or mental condition **or**
    - are a carer **or**
    - are subject to a parenting order or parenting contract **or**
    - have an agreed pattern of availability **or**
    - are a lone parent and are applying their right to restricted availability to their child's school hours **and**
  2. they are on a course of study where the hours are wholly or partly within their pattern of availability **and**

3. are willing and able to re-arrange the hours of the course so that they can take up employment at once
49. But the above only applies if the claimant:
4. was for a continuous period of three or more calendar months, immediately before the date that they first attended the course of study
- receiving of JSA **or**
  - receiving of IB **or**
  - receiving of ESA **or**
  - on WBTfYP (England and Wales) or Skillseekers (Scotland) (see DMG Chapter 34) **or**
  - receiving IS because the IS Decision Maker accepted that they were incapable of work (see DMG Chapter 20) **or**
5. in six calendar months immediately before the date that they first attended the course of study were for one or more periods totalling three or more months, receiving one of the benefits listed above or on WBTfYP (England and Wales) or Skillseekers (Scotland) as in **4**; **and**
6. for the remainder of the six calendar months immediately before the date that they first attended the course of study in
- remunerative work (see DMG Chapter 20) **or**
  - other work, the income from which disentitled them from receiving any JSA, ESA or IS that would have been payable.
50. **Note:** All the period of three months in **4** or six months in **5** must fall after the Child Benefit terminal date.
51. For the purposes of this easement 'training' means training for which a person under 18 **is** eligible for and a person aged 18 – 24 **may** be eligible for secured by:
- Education Funding Agency (EFA) for England, the Chief Executive of Skills Funding
  - Wales by the National Council for Education and Training (NCET)
  - Scotland (directly or indirectly) by a Local Enterprise Company as part of their arrangements with Scottish Enterprise or the Highlands and Islands Enterprise
52. If the claimant's hours of study fall within their pattern of availability they must also:
- be willing and able to re-arrange the hours of their course to take up employment at times falling within their pattern of availability ; and/or
  - be willing and able to take up employment immediately or at 24 hours notice if they are providing a service or at 48 hours notice if they are doing voluntary work or a carer.
53. However, if claimants place restrictions on their availability which are not related to the course, for example they only wish to work in a town centre to be near the shops, these would be taken into account.

## **Claimant declares they are attending or have been attending a course of study**

54. A claimant may declare they are attending a course of study or training at any time throughout their claim.
55. For students making a new claim, the Contact Centre script has been changed to allow for the gathering of all of the information required to enable an LMDM referral to be made. However, should this information not be available, the claimant should be invited to complete forms ST1 and ES567S.
56. Where a course of education is declared during the life of a claim, forms ST1 and ES567S should be completed by the claimant.
57. There is no longer a requirement to ask the claimant to provide verification of their student income and term end dates; the information provided on the ST1 should be accepted. However, if the claimant is unable to provide this information then verification will be required by either asking the claimant to provide supporting evidence or by contacting the educational establishment.
58. Once the evidence relating to the claimant's course has been gathered. The first consideration is whether they are a full-time or part-time student.

### **Full-time student**

59. The first consideration is whether their course of education has ended.

### **Full-time course has ended**

60. If a claimant who is or appears to be a full-time student wants to claim JSA and they do not satisfy the conditions, do not refuse to take a claim.
61. If the claimant states they have completed a course of full-time study, use the information on the ST1 to confirm the details of the course. Only if the claimant is unsure of the official term end date and is unable to provide evidence from their educational establishment should verification be required.
62. University term end dates will be published on the DWP intranet. However, as each university usually publishes their term end dates on their internet sites, these can be checked if verification is required.
63. If the course end date is after the date of claim for JSA refer the case to the LMDM for a decision.

### **Full-time course continuing**

64. If the ST1 confirms they are still attending a full-time course, explain that they are not regarded as available for employment and may not be entitled to JSA under the normal rules. Only if there is any discrepancy or if the claimant is unable to provide information should they be asked to provide a learning agreement or similar document that shows the course details.
65. If the claimant insists on claiming after the conditions have been explained to them, ask them to complete ES567S, parts 1 and 2 and sign the declaration, and refer the case to the LMDM for a decision.

## **Training**

66. When a claimant declares they are participating in training ask them to produce evidence from the training provider which shows whether the course is full or part-time.
67. If they provide details you should accept them unless there is strong evidence to the contrary. You may find it useful to consider whether the course is similar to any which is Education Funding Agency (EFA) for England, the Chief Executive of Skills Funding funded.
68. Do not rely on the way similar courses were described previously as these may have changed.
69. Ask the claimant to complete ES567S, parts 1 and 2 and sign the declaration.
70. If it is clear from the evidence that the training course is full-time, the claimant is regarded as a full-time student and cannot be regarded as available for employment. Take action to refer the case to the LMDM.

## **Part-time student**

71. When a claimant states they are participating in a part-time course, ask them to complete forms ST1 and part 1 of ES567S.

## **Concession for some part-time students**

72. If the claimant satisfies the conditions set out above and they have answered 'yes' to questions 5 and 6, they should be asked to sign the declaration. A Jobseeker's Agreement can be completed and no further action is necessary.
73. If they answer 'no' to question 5, they will not need to answer question 6. They will still be eligible for the concession.
74. If they answer 'yes' to question 5 and 'no' to question 6 refer their case to the LMDM.
75. If there is any doubt on their availability which is not connected with the course, for example they have restricted the type of work or location in which they are willing to work solely because they want to be near to home, referral to the LMDM will be necessary.
76. See availability for part-time students

## **Non concession cases**

77. Where the claimant does not satisfy the conditions ask them to complete part 2 of ES567S and sign the declaration.
78. If this shows there is no doubt on their availability no further action is required, however if an availability doubt arises because of the course, referral to the LMDM will be necessary, examples of when a doubt would arise include when the claimant is not willing to give the course up for employment, or they have no contact arrangements while attending the course.
79. Discuss and complete a Jobseeker's Agreement as far as possible and refer it to the LMDM with the availability doubt.
80. If a claimant has paid a substantial fee to do the course this could indicate an availability doubt. However as long as a claimant is willing and able to give

up the course, regardless of whether the fee is refundable or not, there is no doubt on their availability and a referral to the LMDM is not required.

81. When the claimant has paid a fee but is willing and able to give up the course, this should be recorded in part 2 of the ES567S, against question 22 "Tell us anything else you think we should know".

82. If you are unable to reach a conclusion as to whether the claimant is a full or part-time student, for example, if they do not produce their learning agreement or other evidence that the course is part-time, ask them to complete all parts of the ES567S.

83. If the claimant fails to provide the information required refer to the LMDM immediately. You will need to draw up a Jobseeker's Agreement and attach this to the referral for a decision.

### **Availability Doubt identified**

84. When an Availability doubt is identified the case must be referred to a LMDM, see the Availability and Actively Seeking Employment chapter for further information on the actions to take.

### **Qualifying Young People**

85. A claimant under 20 years old is considered to be a qualifying young person and treated as being in relevant education and therefore not entitled JSA if:

- They are undertaking a course of full time (non-advanced) education provided at a school or college or are undertaking approved training that is not provided through a contract of employment; and
- The education or training began (or they were accepted or enrolled) before their 19<sup>th</sup> birthday.

86. Full time education is education which exceeds 12 hours per week on average during term time and includes time spent receiving supervised tuition, study or instruction, practical work and examinations. Any time on or off of premises which involves the taking part in any supervised exercise, experiment or project which is part of the course of study should also be counted. Meal breaks, homework or unsupervised study should not be counted.

87. Evening classes can be counted if it is a course of non-advanced education. Education received abroad should be treated in the same way as if it had been received in GB.

88. A course of non-advanced education is defined as being at or below:

- advanced GNVQ or equivalent or
- GCE (A Level) or
- Scottish certificate of education (higher level) or
- Scottish certificate of sixth year studies.

89. Where a persons course of education or training is interrupted and immediately before the interruption they were considered to be a qualifying young person, they will remain a qualifying young person for the duration of the interruption. Examples of interruptions which may occur include (list not exhaustive):

- school holidays

- change or temporary closure of educational establishment
- illness
- illness or death in the family
- authorised absence to follow a course of study elsewhere,

90. In England and Wales, a person continues to be treated as a qualifying young person where they have left relevant education or approved training up to and including:

- the week including the terminal date or
- if they attain the age of 20 on or before that date, the week including the last Monday before they were 20.

**Note:** In this context week is Monday to Sunday.

91. The terminal dates are

- the last day in February
- the last day in May
- the last day in August
- the last day in November

whichever occurs first after they have ceased relevant education or approved training.

92. In Scotland where a person

- undertakes the Higher Certificate or Advanced Higher Certificate immediately before ceasing relevant education **and**
- ceases relevant education earlier than they would have done had they taken the comparable examination in England and Wales

the terminal date is calculated by reference to the date that applies had they taken the examination in England and Wales.

93. A person who reaches 20 whilst still receiving F/T non-advanced education or before reaching the terminal date is no longer treated as receiving relevant education but may be a student.

94. A parent or guardian of a qualifying young person can continue to claim Child Benefit for them and those who are estranged from their parents could apply for Income Support.

## Additional Information

### AR codes

95. Doubts about whether the claimant satisfies the Labour Market conditions for the receipt of JSA are referred to a LMDM for a decision, using the following AR codes:

AR Code	Use to refer	Example of use
JSA550	claimant is not available for employment and cannot be treated as available for employment	claimant has no work permit and is unable to work in this country without one
JSA550S	claimant is a part-time student	claimant is studying for 16 hours or less but not willing to give course up for

		employment
JSA553S	claimant is a full time student	claimant is a full time student

96. Where the claimant is not entitled to JSA but has claimed National Insurance Contribution credits, refer the doubts to the LMDM for a decision using the appropriate AR code with the addition of a letter 'O' at the end to denote it's a credit only decision.

### **Open University**

97. Claimants who are studying for an Open University qualification should be asked to provide details of the course they are doing. Open University courses are specifically designed to be undertaken by people who work full-time or undertake other activities which would prevent them from attending college. The study can be undertaken at any time, coursework is undertaken by correspondence or online and so do not affect students availability to work.

98. OU courses may have a residential week which the student wishes to attend. Regulations provide that for the week they are on an OU residential course you can treat claimants as available. They can also be treated as actively seeking employment as long as the residential course lasts for 3 days or more.

### **Online Courses**

99. With the exception of Open University Courses, any online course should be treated in the same way as a course undertaken at a college. You need to establish whether the course is full or part time and apply the normal rules.

### **Evening classes**

100. If a claimant declares that they are taking a course in the evening this will only affect their availability for employment if their job goal involves shift or evening work.

101. Ask the claimant to provide details of the course they are doing. Referral to LMDM will only be required if the type of work the claimant is seeking involves evening work and the claimant is unable or unwilling to give up the course or vary the hours of attendance.

### **Correspondence course**

102. Some claimants start correspondence courses because they are unemployed and have the time to do the course. If the claimant declares they are doing such a course make sure they are aware that they must be available and actively seeking employment.

### **Studying Abroad**

103. It is possible that a claimant may declare that they are going abroad as part of their course of study or training. There are no provisions in the regulations for JSA to be paid to a claimant who is abroad.

104. If JSA is in payment when the claimant goes abroad their claim should be terminated in the normal way and a new claim to JSA made on their return.

### **Joint Claims**

105. If one member of a joint claim is in full-time education they may apply for an exemption if one or both members of a joint claim are participating in part-time study or training, no additional action is necessary, because they are a joint claim.

### **Qualifications**

106. Any qualifications the claimant has or is working towards should be recorded on LMS via the 'Client Qualifications Details' window. This contributes towards a claimant's National Record of Achievement.

**See** LMS User Guide, Chapter H.