

Restricted availability

In any week, a person may restrict their availability for employment to 40 hours, or more, in that week provided:

- the times at which they are available for work, their pattern of availability is such as to give them reasonable prospects of securing employment;
- their pattern of availability is recorded on a Claimant Commitment (CC); and
- any changes to the agreed pattern of availability are recorded on a varied CC before they occur.

Claimants who are not prepared to work for as many as 40 hours a week are unreasonably restricting their availability for employment, regardless of whether they have reasonable prospects of getting work, unless they are a claimant who can restrict their availability.

Where a claimant has agreed a pattern of availability in their CC, they are only required to take up employment at a time when they have agreed to be available.

Where it has been agreed that a person will be available within 24 hours, if they are providing a service, or within one week, if they have caring responsibilities or are volunteers, the 24 hour or one week periods of notice can include times at which the individual has not agreed to be available for employment. However, the claimant is not required to start work at a time which falls outside their agreed pattern of availability.

Example

- a claimant with caring responsibilities has agreed a pattern of availability on Monday, Tuesday, Thursday and Friday for a total of 30 hours;
- if notice is given on Wednesday, the earliest the claimant needs to be willing and able to start work is the following Wednesday as once weeks notice is required.
- if notice is given on Friday, the earliest the claimant needs to be willing and able to start work is the following Friday, as again one weeks notice is required.

Provided they can show that they have reasonable prospects of obtaining employment in spite of their restrictions, a claimant may restrict their availability by placing restrictions on the:

- nature of the work;
- pay;
- terms and conditions of employment, for example a claimant may not want to take a job which does not include paid holidays, or a pension; or
- locality or localities in which they are prepared to work.

If a claimant imposes restrictions on their availability, establish whether the restrictions placed are what they insist upon, or whether they are merely preferences.

A preference does not amount to a restriction unless it is all they are prepared to accept. Claimants should be warned that placing restrictions on their availability may affect their entitlement to JSA

After claiming JSA for 6 months, a person may not place restrictions on the level of pay they are willing to accept. This means that a claimant should not specify any minimum pay requirement at their 6 monthly review as this would amount to a restriction.

This applies even if the wage requirement is reasonable. This does not apply if the restriction on the level of pay is due to their physical or mental condition.

If the claimant states they are willing to work for the National Minimum Wage(NMW) appropriate to them, take a statement to that effect and annotate it 'Treat as straightforward - NMW only required'.

No referral to the Benefit Delivery Expert Labour Market Decision Maker (LMDM) will be necessary in these cases.

All other cases where the claimant insists on restricting the rate of pay they require after 6 months of unemployment, must be referred to the LMDM for a decision.

Establishing reasonable prospects

To establish whether a claimant has reasonable prospects of securing employment, all the following circumstances must be taken into account:

- their skills, qualifications and experience;
- the type and number of vacancies within daily travelling distance of their home;
- if they want a type of job which is not available locally, consider whether they are willing to:
 - move home to do this type of work; or
 - work away from home during the week; or
 - work at home if the known employers commonly employ home working arrangements;
- how long it is since they last worked;
- the job applications they have made and the outcomes;
- any availability restrictions.

However, purely because a claimant is long-term unemployed this does not mean that they do not have reasonable prospects of finding work.

The claimant must show they have reasonable prospects of securing employment if they wish to restrict their availability in any way.