
STATUTORY INSTRUMENTS

2008 No. 794

The Employment and Support Allowance Regulations 2008

PART 8

CONDITIONALITY

CHAPTER 2

Work-focused interviews

Requirement to take part in a work-focused interview

54.—(1) The Secretary of State may require a claimant who satisfies the requirements in paragraph (2) to take part in one or more work-focused interviews as a condition of continuing to be entitled to the full amount of employment and support allowance payable to the claimant.

(2) The requirements referred to in paragraph (1) are that the claimant—

(a) is either—

(i) entitled to an employment and support allowance; or

(ii) a person in respect of whom the Secretary of State has made an award under regulation 146(1);

(b) is not a member of the support group;

(c) has not reached the age at which a woman of the same age as the claimant would attain pensionable age; and

(d) is not only entitled to a contributory allowance payable at a nil rate.

(3) Any requirement to take part in a work-focused interview ceases to have effect if the claimant ceases to satisfy the requirements in paragraph (2).

Work-focused interview

55. The purposes of a work-focused interview are any or all of the following—

(a) assessing the claimant's prospects for remaining in or obtaining work;

(b) assisting or encouraging the claimant to remain in or obtain work;

(c) identifying activities that the claimant may undertake that will make remaining in or obtaining work more likely;

(d) identifying training, educational or rehabilitation opportunities for the claimant which may make it more likely that the claimant will remain in or obtain work or be able to do so;

(e) identifying current or future work opportunities, including self-employment opportunities, for the claimant, that are relevant to the claimant's needs and abilities.

Notification of interview

56.—(1) The Secretary of State must notify the claimant of the requirement to attend the work-focused interview including details of the date, time and place of the interview.

(2) A work-focused interview may take place at a claimant's home if it is determined that requiring the claimant to attend elsewhere would cause undue inconvenience to, or endanger the health of, the claimant.

(3) The notification referred to in paragraph (1) may be in writing or otherwise.

Taking part in a work-focused interview

57.—(1) A claimant is regarded as having taken part in a work-focused interview if the claimant—

- (a) attends for the interview at the place and at the date and time notified in accordance with regulation 56;
- (b) provides information, if requested by the Secretary of State, about any or all of the matters set out in paragraph (2);
- (c) participates in discussions to the extent the Secretary of State considers necessary, about any or all of the matters set out in paragraph (3);
- (d) assists the Secretary of State in the completion of an action plan.

(2) The matters referred to in paragraph (1)(b) are—

- (a) the claimant's educational qualifications and vocational training;
- (b) the claimant's work history;
- (c) the claimant's aspirations for future work;
- (d) the claimant's skills that are relevant to work;
- (e) the claimant's work-related abilities;
- (f) the claimant's caring or childcare responsibilities; and
- (g) any paid or unpaid work that the claimant is undertaking.

(3) The matters referred to in paragraph (1)(c) are—

- (a) any activity the claimant is willing to undertake which may make obtaining or remaining in work more likely;
- (b) any such activity that the claimant may have previously undertaken;
- (c) any progress the claimant may have made towards remaining in or obtaining work;
- (d) any work-focused health-related assessment the claimant may have taken part in; and
- (e) the claimant's opinion as to the extent to which the ability to remain in or obtain work is restricted by the claimant's physical or mental condition.

Action plan

58.—(1) An action plan is a document that is completed by the Secretary of State and contains—

- (a) a record of a work-focused interview;
- (b) a record of any activity that the claimant is willing to take which may make obtaining or remaining in work more likely or which may make it more likely that the claimant will be able to do so;
- (c) any other information that the Secretary of State considers to be appropriate.

(2) An action plan must be in writing.

(3) The Secretary of State must provide a claimant who attends a work-focused interview with an action plan.

Deferral of requirement to take part in a work-focused interview

59.—(1) A requirement to take part in a work-focused interview may be deferred or treated as having been deferred if at the time the work-focused interview is to take place, or was due to take place, such an interview would not at that time be or have been—

- (a) of assistance to the claimant; or
- (b) appropriate in the circumstances.

(2) A decision under paragraph (1) may be made at any time after the requirement to take part in the work-focused interview is imposed, including after the time that the work-focused interview was due to take place or took place.

(3) Where a requirement to take part in a work-focused interview is deferred, or treated as having been deferred, then the time that the work-focused interview is to take place must be re-determined.

Requirement to take part in a work-focused interview not to apply

60. The Secretary of State may determine that a requirement on a claimant to take part in a work-focused interview is not to apply, or is to be treated as not having applied, if that interview would not be, or would not have been, of assistance because the claimant is or was likely to be starting or returning to work.

Failure to take part in a work-focused interview

61.—(1) A claimant who is required to take part in a work-focused interview but fails to do so must show good cause for that failure within 5 working days of the date on which the Secretary of State gives notification of that failure.

(2) The Secretary of State must determine whether a claimant who is required to take part in a work-focused interview has failed to do so and, if so, whether the claimant has shown good cause for that failure in accordance with paragraph (1).

(3) In determining whether a claimant has shown good cause for the failure to take part in a work-focused interview, the Secretary of State may take the following matters into account—

- (a) that the claimant misunderstood the requirement to take part in the work-focused interview due to learning, language or literacy difficulties or any misleading information given or sent by the Secretary of State;
- (b) that the claimant had transport difficulties and that no reasonable alternative was available;
- (c) that the claimant was attending an interview with an employer with a view to remaining in or obtaining work;
- (d) that the claimant was pursuing employment opportunities as a self-employed earner;
- (e) that the claimant was attending a medical or dental appointment and that it would have been unreasonable in the circumstances to re-arrange the appointment;
- (f) that the claimant was accompanying another person for whom the claimant has caring responsibilities to a medical or dental appointment and that it would have been unreasonable for that other person to re-arrange the appointment;
- (g) that the claimant, a dependant or another person for whom the claimant provides care suffered an accident, sudden illness or relapse of a physical or mental condition;
- (h) that the claimant was attending the funeral of a relative or close friend on the day of the work-focused interview;

- (i) that the physical or mental condition of the claimant made it impossible to attend at the time and place fixed for the interview;
- (j) that the established customs and practices of the religion to which the claimant belongs prevented attendance on that day or at that time;
- (k) any other matter which the Secretary of State considers appropriate.

Contracting out certain functions relating to work-focused interviews

62.—(1) Any function of the Secretary of State specified in paragraph (2) may be exercised by, or by employees of, such person (if any) as may be authorised by the Secretary of State.

(2) The functions are any function under—

- (a) regulation 54(1) (requirement to take part in a work-focused interview);
- (b) regulation 56(1) and (2) (notification requirement);
- (c) regulation 57(1)(b) and (c) (taking part in a work-focused interview);
- (d) regulation 58(1) and (3) (action plan);
- (e) regulation 59(1) and (3) (deferral of requirement to take part in a work-focused interview);
- (f) regulation 60 (requirement to take part in a work-focused interview not to apply).