

What the guidance says:

15. Decision Makers at the Department for Work and Pensions ("DWP") rely on guidance issued by the Secretary of State for Work and Pensions to work out whether or not a particular claimant has provided the "compelling evidence". This guidance is in the *Decision Maker's Guide* at paras 073099 and onwards:

**Compelling Evidence**

073099 The DM can extend the claimant's JSA entitlement where the claimant has provided compelling evidence that a change of their circumstances as set out below has now given them a genuine prospect of work -

1. where the claimant has provided reliable evidence that they have a genuine offer of a specific job which will be genuine and effective work (see DMG 073112 to 073113) provided that job is due to start within 3 months starting from the relevant period plus 1 day point. In this case the relevant period can be extended up to the day before the job actually starts or is due to start (whichever is the earlier) or
2. where the claimant can provide proof during the relevant period that a change of circumstance has given them genuine prospects of employment (which will be genuine and effective work (see DMG 073112 to 073113) and as a result they are awaiting the outcome of job interviews).

In these cases the relevant period can be extended by up to 2 months. Any extension is backdated to the date of change. However, time within the current relevant period is disregarded and as such, any change that occurs more than 2 months before the last day of the relevant period will not, in practice, result in any extension beyond the six month point.

**Note:** Examples of a change in circumstances could include evidence of recent completion of a vocational training course, or a recent change of location to improve labour market conditions, which may significantly improve the claimant's genuine prospect of employment. Using these examples, the date of change would be the date that any qualification was awarded from, or the date that the claimant moved into a different labour market area.

073100 The DM should accept there is compelling evidence if

1. the claimant has a definite job offer of genuine and effective work or
2. the evidence presented of their change in circumstances indicates that it is likely the claimant will receive a job offer imminently. The DM should note that it is irrelevant whether the evidence is compelling if the change in circumstances does not meet the "date of change" requirement stated at DMG 073099 2. above

"subject to OBS" is not compelling.



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Changes which may affect your entitlement to continue being paid income based Jobseeker's Allowance (JSA(IB)).

Dear <Title> <Surname>

We are writing to tell you about changes which may affect your entitlement to be paid income based Jobseeker's Allowance (JSA (IB)).

### Introduction

Changes to Home Office Regulations limit the time EEA Nationals have the right to reside in the UK as a jobseeker to 91 days or as a person who retains worker status to 6 months, unless at the end of this period they can provide compelling evidence that they are actively seeking work and have a genuine prospect of work.

As an EEA National you may be affected by these changes.

This letter is to advise you that your right to reside in the UK and your entitlement to JSA (IB) will be reviewed in 3 months from the date of this letter. If you have been receiving Housing Benefit (HB) this may also be affected by any decision regarding your entitlement to JSA (IB).

### Finding a Job

In the meantime you must continue to meet all the requirements for receiving JSA (IB) during the period of your claim. You must be doing everything you can to find work or to improve your chances of starting work before your right to reside is reviewed. Your Jobseeker's Allowance could be affected if you do not have a genuine prospect of work in three months' time.

Find out more about these requirements at [www.gov.uk/jobseekers-allowance](http://www.gov.uk/jobseekers-allowance)

If you are, or have been, supported by an extended family member such as an unmarried partner, sister, brother, aunt, uncle, etc. you will also need to show that you have a visa to live in the UK as a family member of an EEA national. You will also need to show how you were supported by this family member before you came to the UK.

or your partner  
If you have a child in education and have worked in the UK since your child came to live here you will need to provide evidence of this. We need evidence that the child is in education in the UK. This should be a letter or form from either the school or local education authority. It should show the date the child started school and that they are still attending school. You will also need to provide evidence of the relationship between you and the child, for example the child's birth certificate or adoption certificate. You will need to provide your work history as above.

For further information on all right to reside regulations please see the website below:  
[www.gov.uk/government/publications/eea-and-swiss-nationals-free-movement-rights](http://www.gov.uk/government/publications/eea-and-swiss-nationals-free-movement-rights)

### **What will happen after the interview in 3 months?**

The evidence you provide at your interview in support of your right to reside and entitlement to JSA (IB) is referred to a Decision Maker. The Decision Maker will consider all the evidence and make a decision on your right to reside in the UK and entitlement to JSA (IB).

Depending on your circumstances you may be granted a limited extension to your right to reside and this may also extend your benefit.

If you cannot provide compelling evidence, then as a result of the legislative changes made by the Home Office you will no longer have a right to reside as a jobseeker or as a person who retains worker status and we will close your claim to Jobseekers Allowance.

If you lose your right to reside in the UK following the assessment, you will also lose your entitlement to JSA (IB) and your JSA (IB) claim will be closed.

If you have been receiving Housing Benefit (HB) this may also be affected. The Department for Work & Pensions (DWP) will notify your local authority (LA) that your JSA (IB) has stopped and they will review your claim. LA's are responsible for HB decisions so you should contact your LA if you have any questions on this issue.

If you demonstrate another right to reside your claim will continue unless your circumstances change.

### **How will I be told about my right to reside decision?**

You will receive a letter from the DWP which will tell you the outcome of the decision on your right to reside and JSA (IB) entitlement.

### **Why are you doing this now?**

Since the 1<sup>st</sup> January 2014, new claims to JSA (IB) from EEA Nationals have been time limited. However, you have been receiving JSA (IB) for longer than this limited period therefore the DWP need to ensure that you still have a right to reside in the UK and are entitled to JSA (IB).

### **What happens next?**

If you have any queries regarding this letter please contact us on your local Jobcentre on the telephone number above.

Yours sincerely

<Staff Forenames> <Staff Surname>