



Department  
for Work &  
Pensions

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[DWP Website](#)

Our Ref: FOI2023/39446

09 June 2023

Dear Charles Ellinson,

Thank you for your Freedom of Information (FoI) request received on 23 May. You wrote:

“During the pandemic, a new system of auto-reclaims was implemented in UC (Reg 32A of The Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013). This system has been retained since the pandemic.

Please can you provide any information or guidance held by the Department relating to the use of this system. In particular, I am interested in whether a claimant can choose not to be treated as making a claim in a subsequent month.

The reason I am requesting this information is because in cases of surplus earnings, it can sometimes be beneficial not to claim UC immediately after a nil award - see para. 2.10(g) here: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1103236/ssac-minutes-13-dec-2017.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1103236/ssac-minutes-13-dec-2017.pdf)

It is also worth noting that in para. 2.10(j) of the above document, it is suggested that a claim can be withdrawn before a decision is made on it, and that such a withdrawn claim would not cause the surplus earnings rules to apply in the month of the subsequent claim. Please also provide any information held by the Department regarding this point.”

## **DWP Response**

We can confirm that the Department holds this information. However, the information is exempt under Section 21(1) of the Freedom of Information Act because the information is reasonably accessible to you, as it is already in the public domain.

We have provided the relevant links below.

Information about the introduction and operation of reclaims of Universal Credit after nil award due to earnings in regulation 32A, in the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013, can be found in the documentation for the regulations, please see the link below:

[The Universal Credit \(Coronavirus\) \(Self-employed Claimants and Reclaims\) \(Amendment\) Regulations 2020 \(legislation.gov.uk\)](#)

The explanatory memorandum sets out the rationale, please see 7:10 particularly which is about avoiding the issue outlined at 2.9 in the 2017 Social Security Advisory Committee (SSAC) minutes, 'that a claimant receiving a substantial bonus in a particular month would need to make successive unsuccessful claims for UC in the succeeding months in order to ensure that their surplus earnings were fully eroded'.

Please also find a link below to further correspondence between SSAC and DWP which covers the change to regulations, surplus earnings and the need for automation to ensure that people are able to access the support they need:

[Universal Credit: surplus earnings - GOV.UK \(www.gov.uk\)](#)

In general, treating the claim as made in the assessment period following a fluctuation in earnings will ensure that there is an automatic check to assess whether a claimant will requalify for a Universal Credit award, without them having to make sure that they reclaim within the appropriate time period.

None of these changes to regulations prevents a claimant from withdrawing their claim at any time they choose, where they are no longer seeking support from Universal Credit.

If you have any queries about this letter, please contact us quoting the reference number above.

Yours sincerely,

DWP Central Freedom of Information Team  
Department for Work and Pensions

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## **Your right to complain under the Freedom of Information Act**

If you are not happy with this response you may request an internal review by e-mailing [freedom-of-information-request@dwp.gov.uk](mailto:freedom-of-information-request@dwp.gov.uk) or by writing to: DWP Central FoI Team, Caxton House, 6-12 Tothill Street, London, SW1H 9NA.

Any review request should be submitted within two months of the date of this letter.

If you are not content with the outcome of the internal review you may apply directly to the Information Commissioner's Office for a decision. Generally, the Commissioner cannot make a decision unless you have exhausted our own complaints procedure. The Information Commissioner can be contacted at: The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF.

Website: [ICO FOI and EIR complaints](#) or telephone 0303 123 1113.