

REQUEST FOR DMA GUIDANCE

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PLEASE COMPLETE THIS FORM – WE WILL USE IT TO REPLY TO YOU

(Sections will expand as you type)

Sender's Name	Benefit Involved
	UC
Office Location	Subject Involved
	Relinquishment of entitlement to UC
Your direct phone number and extension	
With reference to previous Leeds response UC166771 on 13/11/2015	

1. The reason for your enquiry:

Previously in the above Leeds Response the guidance that was given in relation to the effective date that the relinquished UC award came to an end, directed us to ADM A4130 option 3:-

“the first pay day following the date the decision is made, where benefit continues to be paid after the application is made and is not returned.”

This is currently what we as DM's are using in decisions for Relinquishment of UC. However, Debt Management are disputing that all payments of UC paid under an award are recoverable from the claimant. This we do not dispute however it contradicts the guidance previously given as option 4 would apply.

What I am asking to be clarified is whether Option 3 or 4 applies in this type of case. It would appear that Option 4 is the only one that applies to and makes reference to UC.

I think the point in this case is whether Relinquishing Benefit is considered as a change in circumstances (Option 4) or a pay-ability issue.

Option 3 - is an advantageous decision for the Claimant and if carried out at the correct time there would never be any overpayments to recover from the claimant unless it is not actioned at the correct time and benefit payments ran on.

Unlike other benefits where “Official error” exists it does not for Universal Credit and all overpayments accrued are recoverable from UC claimants.

Please advise.

2. What law and guidance (including the DMG) have you considered so far?

Section 10 (5) of the Social Security Act 1998 Schedule 1 Part III paragraph 20 of the UC (Decision & Appeals) Regulations 2013 - ADM

3. If you need an urgent reply (within 4 working days) please explain why:

DM's within Glasgow, Wrexham possibly other SC's within the UC Network are making decisions of this nature in accordance with the guidance originally given in November 2015. If the decisions should be made applying Option 4 all the previous and impending decisions of this nature have been/ will be made incorrectly across the Network and requires to be resolved urgently to minimise the impact. I would be very grateful for a quick response.

4. How to send your enquiry and any supporting documents to DMA Leeds -

Internal e-mail address:

[REDACTED]

Fax No:

Courier address:

We will acknowledge your guidance request when we receive it – please keep a note of the reference number shown in case you need to contact us.

So that your enquiry and our guidance are kept together, we will send our reply back to you with this form.

PLEASE CLICK HERE ONCE (ONLY)
TO SEND THIS FORM TO FLDM
DMA

YOUR GUIDANCE REPLY FROM DMA (part of Feedback and Decision Making)

From:		Date:	21 June 2017
Team:	2	Our Ref:	175990

Thank you for writing to DMA Leeds for guidance.

Firstly, relinquishment of a benefit award requires entitlement to be ended, not just payability. The decision maker must supersede the award on the grounds that there has been a relevant change of circumstances.

I have spoken to one of my Policy colleagues about your question, and he has confirmed that the policy intention is that a UC claimant should not be left with a recoverable overpayment when they relinquish entitlement to benefit. There is clear case law that says that an award cannot be relinquished for a past period – relinquishment is always prospective rather than retrospective. If we always use the start of the AP in which the notification of relinquishment is received as the effective date of supersession, we are essentially forcing the claimant to relinquish benefit from a date in the past, which is contrary to the case law.

The guidance in Paragraph A4130.4 of the ADM is therefore wrong and I've written to the author to ask him to amend it. The policy advice is that if a UC claimant notifies you that they wish to relinquish their award, you should supersede it with effect from *the start of the assessment period that follows the one in which the decision is made*. This will ensure that there is no overpayment in the event of a delay in processing the claimant's application.

I hope this is helpful,