# APAD Universal Credit Working Group NewsletterApril 2019



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## Introduction

Welcome to the latest newsletter of the APAD Universal Credit (UC) working group. In this newsletter we tell you about the latest from the DWP concerning UC payments with NINOs, some further information about the mixed age couples rules and an alert about UC overpayments.

## UC payments with National Insurance numbers

Following the update on this issue in the previous newsletter, we have heard from a number of APAD members. Disappointingly it seems as if it is still very hit and miss as to whether payments are being made with a NINO reference.

This is the latest information from DWP:

* From February 2019, any new claims for claimants under Corporate Appointeeship or Deputyship should have their references pinned to their national insurance number.
* This should be identified with a banner on top of the online profile.
* If you have claims from before February or others where this has not been done you need to contact Universal Credit and request that “The Corporate appointee ALP (Agent Led Process) and To Do is put in place” and also advise that they are required to set a ‘CAB’ marker on the UC Account which acts as a system prompt. This in turn uses the NINO as the payment reference number.
* You should be able to do this via the client’s UC Journal or by ringing the UC helpline on 0800 328 5644.

Again, we would be very grateful if members could let us know whether they are successful in getting payments referenced with a NINO using this approach. You can contact us via the APAD website or direct to this email apadunicredit@gmail.com.

## “Mixed age” couples and Universal Credit

The surprisingly complicated regulations concerning “mixed age” couples and entitlement to Pension Credit come into force on **15 May 2019.**

A “mixed age” couple is one where one member is under and one is over state pension age. Until 15 May this year such a couple can choose whether to claim Pension Credit or stay on a working age benefit. Pension age benefits are more generous.

**The main message is – claim Pension Credit and/or pension age Housing Benefit (HB) before 15 May to avoid getting less generous benefits.**

Our understanding of the rules from 15 May:

1. **Mixed age couples** **already getting Pension Credit** stay on it as long as they continue to meet the conditions. If they later split up, the older partner can continue claiming Pension Credit and pension age HB as a single claimant and the younger will usually need to claim Universal Credit.
2. **Mixed age couples already getting pension age Housing Benefit** continue to get it as long as they meet the conditions **and** can make a new claim for Pension Credit after 15 May if they qualify. For this to apply the Housing Benefit claim **must** be in the pension age partner’s name. If not you will need to swap the claim to the older partner’s name **by 14 May**.
3. **Mixed age couples who have a change of circumstances** (for example an increase in income) which means **both** Pension Credit and pension age HB stop **cannot** reclaim either if their circumstances change again. If **either** Pension Credit or pension age HB had continued despite the change they **can** reclaim the other when their circumstances change again.
4. **Mixed age couples getting a working-age benefit** (for example Employment and Support Allowance) **via the younger partner** have a choice up to 14 May. They can terminate the working-age claims and the pension age partner can claim Pension Credit and pension age HB if entitled. (Seek advice in this situation because the younger partner’s National Insurance contribution record may be affected.) Or they can stay on the working-age benefit but from 15 May cannot then claim Pension Credit or pension age HB till the younger partner reaches pension age **or** they make a backdated claim, see below.
5. **A new mixed age couple which forms after 15 May** will not be able to claim Pension Credit or pension age Housing Benefit.
6. **A mixed age couple who have not claimed PC or pension age HB by 14 May but can show an entitlement on that date** can make a backdated claim for **either** until **13 August 2019**.

Generally it is better to get pension age benefits because they are a lot more generous. Also, if a UC claim has to be made the younger partner may be subject to conditionality.

**Not able to claim pension age benefits OR Universal Credit?**There may be cases where a mixed age couple who cannot claim pension age benefits cannot claim UC either, because they are or have recently been entitled to a severe disability premium with a legacy benefit. In this case they may be able to make a new claim for a legacy benefit. **This is a complicated area and we recommend you seek advice if possible from an experienced welfare rights adviser**.

## The mixed age couples rules generally are a complicated area of law and interpretations may change as it comes into force. We will try to cover any changes in future newsletters and the APAD website.

## Universal Credit overpayments

You may have heard that you cannot challenge a Universal Credit overpayment. This is only partly true.

You cannot dispute whether the overpayment is **recoverable** – all UC overpayments are. But you **can** challenge the calculation of the overpayment. You can also ask UC to offset any unpaid UC against an overpayment.

We would encourage people to challenge overpayment calculations because we are yet to see a UC overpayment letter which correctly sets out a calculation. Usually they do not contain a calculation at all or identify the period of the alleged overpayment. You therefore have no way of knowing how they have reached the amount they want repaying and it may well be incorrect.

You challenge an overpayment decision in the normal way, that is, by requesting a mandatory reconsideration and then appealing to an independent tribunal if still not satisfied.

**Legacy benefit overpayments recovered through Universal Credit**DWP are seeking to recover old tax credit overpayments (and legacy benefit overpayments) through UC. This appears to be happening even where the tax credit overpayment was written off by HMRC. They are going back many years – in one case the alleged tax credit overpayment was from 2005.

Although the law allows DWP to do this, the calculations and dates should still be provided so you can check them. The DWP may have difficulty providing sufficient evidence of such historic overpayments so it is worth seeking advice about challenging.

**Asking Universal Credit not to recover an overpayment**

You can ask UC not to recover all or part of an overpayment if the client’s health or welfare would be affected. You need to provide as much detail as possible including a statement of income and outgoings if the request is on financial grounds.

The DWP publish a [Benefit Overpayment Recovery Guide](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/770083/benefit-overpayment-recovery-guide.pdf) which gives more information about the grounds they will consider.

## Your feedback

The working group would really like to know about issues are affecting your team with regard to Universal Credit. We would also like to hear about good practice and solutions that teams may have found that we can share with the membership.

You can email us at apadunicredit@gmail.com or via the [new website](https://www.apad.org.uk/).