

Decisions of Social Security and Child Support Commissioners on Housing Benefit and Council Tax Benefit

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Housing benefit and council tax benefit cases

File number	Date	Council	Benefit	Legislation in issue	Keywords
CH/2959/2006	21/12/06	Derby	HB	Regs 6 and 7(1) HB Regs HB Regs 1987	Whether a party with no interest in land can enter into a valid agreement which gives rise to a liability within reg 6
CH/1395/2006	20/12/06	Wigan	HB CTB	Reg 77 & Sch 6 HB Regs 1987	Overpayment of housing benefit – whether procedure followed correctly – whether tribunal had jurisdiction over recoverability
CH/2484/2006	18/12/06	Ealing	HB	Reg 7 HB Regs 1987	Whether point of law raised in appeal to Commissioner – adequacy of tribunal's weighing of evidence

CH/1556/2006	13/12/06	Hounslow	HB	Regs 12A and 68 HB Regs 1987.	Rent restrictions – whether rent increase should be referred to Rent Officer – whether tenancy contains provisions allowing rent to be increased Human Rights – Article 6 applies to tribunals not local authorities – need to identify a convention right engaged in local authority actions
CH/2121/2006	13/11/06	Oxford	HB	Reg 7(1)(l) HB Regs 1987	No minimum level of understanding on the part of a tenant that makes a tenancy void for lack of capacity – tenancy merely voidable at the tenant's option
CH/2986/2005	13/11/06	Conwy	HB	Regs 93 & 94 HB Regs 1987	Whether landlord has right to appeal against decision of local authority to stop paying housing benefit to landlord when housing benefit modified to the local housing allowance. Introduction of local housing allowance – whether local housing allowance part of housing benefit for procedural reasons.

CH/883/2006 Reported as R(H) 3/07	10/11/06	Liverpool	HB	Reg10(2)(a) HB Regs 1987	Long tenancy – whether created by lease not under seal
CH/1400/2006	08/11/06	Kensington and Chelsea	HB CTB	Reg 7A HB Regs 1987	European law – right to reside – education and services
CH/2638/2005	02/11/06	Gosport	HB	Reg 5(5)(d) HB Regs 1987	Recovery of overpayment – liability – whether tribunal had sufficient evidence that claimant could not reasonably have avoided liability in respect of former property
CH/3083/2005	01/11/06	Wolverhampton	HB CTB	Reg 99 HB Regs 1987	Whether overpayment caused by official error where DWP failed to notify council of claimant's claim for extended payments of housing benefit
CH/542/2006	23/10/06	Barnet	HB	Reg 7(1) HB Regs 1987	Whether reg 7(1)(b) applies where landlord occupies only part of the dwelling occupied by claimant
CH/687/2006	16.10.06	Bexley	HB CTB	Regulation 66 (2), 75(1) and 99 HB Regs 1987	Official error – whether need to investigate possible future changes in claimant's income

CSH/149/2006 To be reported as R(H) 4/07	11.10.06	Glasgow	HB	Regs 5(5)(e)(i) and 5(6)(c)(ii) HB Regs 1987	The word 'adapt' in respect of a dwelling does not encompass carpeting and decorating
CH/532/2006	10/10/06	Sheffield	HB	Reg 76(2) HB Regs 1987 Paragraph 18 of Schedule 7 to the Child Support, Pensions and Social Security Act 2000	Application of the test case rule to decision of Tribunal of Commissioner in R(H) 3/05
CH/3314/2005	25/09/06	Leicester City Council	HB CTB	Reg 7A(4) & 4B HB Regs 1987	European Union law – discrimination on the ground of nationality – whether the right to reside test is proportionate. European Union law – free movement – whether person caring for a sick child remains a 'worker'. Residence and presence conditions – right to reside – whether person caring for a sick child remains a 'worker' Decided with CIS/3315/2005
CH/858/2006	11/09/06	Southwark	HB	Regs 98 and 99 HB Regs 1987	Can official error overpayments be split?

CH/1911/2006	08/09/06	Portsmouth	HB	Reg 5 HB Regs 1087	Occupation of the home – two homes – claimant's partner moved to new property
CH/2812/2005 Reported as R(H) 1/07	27/07/06	Ealing	HB	Reg 20 HB & CTB and Council Tax Benefit (D&A) Regs 2001	Collateral challenge to High Court order – tribunal's jurisdiction over case does not depend on referral by local authority
CH/282/2006 CH/557/2006	27/07/06	Vale Royal	HB CTB	Reg 9(3)(c) HB & CTB and Council Tax Benefit (D&A) Regs 2001	Late notification of change of circumstances – practicability
CH/1220/2005 (Heard with CIS/1216/2005)	20/07/06	Chichester	HB	Regs 49(4) and 51(3) SSCS (D&A) Regs Regulations 1999	Recoverability of overpayment of Housing Benefit when income support removed Discretion whether to adjourn appeal pending criminal proceedings – relevant factors <i>(Appeal pending in Court of Appeal as Mote v Secretary of State for Work and Pensions and another. Listed for hearing between 14 May – 31 Oct 2007)</i>

CH/257/2005	17/07/06	Norwich	HB	Reg 10 HB Regs 1987	Effect on entitlement to benefit of landlord's failure to comply with section 48(1) of the Landlord and Tenant Act 1987
CH/3497/2005	06/07/06	Harlow	HB	Regs 5 & 7 HB Regs 1987	Delay by local authority in referring appeals to the Appeals Service – extent of use as home – commerciality of agreement
CH/423/2006 CH/424/2006 CH/425/2006 Reported as R(H) 2/07	19/06/06	Sheffield	HB	Old version of reg 11 HB Regs 1987	Exemption for 'supported accommodation' – care, support or supervision provided to tenants – whether provided 'on behalf of landlord' where landlord has no contractual or statutory obligation to provide it and does not engage the care provider to provide it
CH/1786/2005	08/06/2006	Westminster	HB	Reg 5(1) & (8) HB Regs 1987	Occupation of the home – dwelling 'normally occupied as the home' – whether 'centre of interest' test applies
CH/3586/2005	26/05/2006	Ealing	HB CTB	Reg 7(1) (a) & (l) Regulation 10(2)(a) HB Regs 1987	Tenancies and contrived agreements – tenancy for life: whether long tenancy: formalities under law of property act

CH/2553/2005	26/05/2006	Ealing	HB	Regs 2, 53, 54 & 58 SSCS (D&A) Regs	Tribunal practice – application for statement of reasons made more than three months after issue of decision notice – whether power to issue a statement of reasons
CH/3402/2005	17/05/2006	Leicester	HB CTB	Reg 72(15) HB Regs 1987 Reg 62(16) CTB Regs 1992	Backdating –late renewal claim
CH/2409/2005	12/05/2006	Cambridge	CTB	Regs 2(1), 65(1), 84 CTB Regs 1992	Recoverability of excess council tax benefit
CH/4234/2004 Tribunal of Commissioners Reported as R(H) 6/06	12/05/2006	Croydon	HB	Reg 101 HB Regs 1987 Sch 7 para 6(6) CSPSSA Sch to HB&CTB (D&A) Regs, paras 1(f) and 3	Recovery of overpayments – landlords – scope of appeal rights where an overpayment is recoverable from more than one person

CH/2484/2005	12/05/2006	Leicester	HB CTB	Reg 7A HB Regs 1987 Reg 4A CTB Regs 1992	Residence and presence conditions – right to reside -non-economically active nationals of EC or EEA countries – whether 'persons from abroad' (decided with CIS/2559/2005; CIS/2680/2005; CIS/3573/2005; CPC/2920/2005 – separate decisions issued)
CH/264/2006	26/04/2006	Basildon	HB	Reg 43(1) HB Regs 1987	Deprivation of capital – reason for expenditure
CH/1450/2005	04/04/2006	Lambeth	HB CTB	Reg 33(3AA) HB Regs 1987	Overpaid tax credits as income for HB/CTB purposes See HB/CTB General Information Bulletin G6/2006 June 2006
CH/704/2005	21/03/2006	Waltham Forest	HB CTB	S68 & Sch 7 para 11 CSPSSA	Whether question of claimant's beneficial interest in house <i>res judicata</i> by reason of previous County Court decision

CH/3017/2005 Reported as R(H) 5/06	17/03/2006	Camden	HB	Reg 7(1)(b) HB Regs 1987	Human rights – whether exclusion from entitlement to housing benefit where claimant a close relative of and living in same dwelling as landlord is discrimination contrary to Article 14 of the European Convention on Human Rights
CSHB/606/2005	06/03/2006	Dundee	HB	Reg 6(1) HB Regs 1987	Liability to make payments – claim by daughter after mother's benefit withdrawn
CSHB/405/2005	15/02/2006	Glasgow	HB	Reg 5(1) (7B),(7C),(8), (8B) & (8C) HB Regs 1987	Occupation of the home – intention to return to occupy the former home
CH/4424/2004 Reported as R(H) 3/06	01/02/2006	Boston	HB	Old version of reg 11 HB Regs 1987	Eligible and ineligible payments – incapacity – basis of assessment – how incapacity for work to be determined

Other relevant cases

Note: non-HB/CTB search categories that may include cases of relevance or interest include Capital; Earnings and other income; Income support and state pension credit; Recovery of overpayments; Marriage and living together; Residence and presence conditions; Revisions, supersessions and reviews.

If you are interested in a specific issue that is not covered by the search categories try searching the Notes field on the [Search for Decisions](#) page by key word. See [Help with searching](#). Below are a few recent cases that may be relevant to HB/CTB cases.

File number	Date	Benefit	Legislation in issue	Keywords
CPC/1820/2005 , CPC/2574/2005 To be reported as R(PC) 1/07	28/07/06	SPC	Sch II para 13(2)(b) SPC Regs 2002 Sch 1 para 1 HB Regs	Eligible housing costs – service charges – sheltered housing – evidence required to establish eligible proportion of costs of warden
CIS/176/2006	20/06/06	IS	Regulation 12 of the Social Security (Immigration and Asylum) Consequential Amendments Regulations 2000	Asylum claim recorded as determined other than an appeal
CIS/515/2006	18/05/06	IS	–	Income support – capital – income becoming capital

HB/CTB decisions selected for reporting in 2006

Reported as	File number	Council	Benefit	Legislation in issue	Keywords
R(H) 1/06	CH/3169/2004	Leeds	HB	Reg 43 HB Regs	Capital – deprivation – significant operative purpose
R(H) 2/06	CH/1815/2005	Rother	HB CTB	Reg 74 HB Regs Reg 64 CTB Regs	Withdrawal of claim – whether can be reinstated – duress
R(H) 3/06	CH/4424/2004	Boston	HB CTB	Old version of regulation 11 HB Regs	Eligible rent – incapacity – basis of assessment – how incapacity for work to be determined
R(H) 4/06	Secretary of State v Selby DC & Bowman [2006] EWCA Civ 271 (CH/1854/2004)	Selby	HB	Reg 5 HB Regs	Occupation of the home – entry into residential accommodation on a trial basis – position where residence becomes permanent

R(H) 5/06	CH/3017/2005	Camden	HB	Reg 7(1)(b) HB Regs 1987	Human rights – whether exclusion from entitlement to housing benefit where claimant a close relative of and living in same dwelling as landlord is discrimination contrary to Article 14 of the European Convention on Human Rights
R(H) 6/06 Tribunal of Commissioners	CH/4234/2004	Croydon	HB	Reg 101 HB Regs 1987 Sch 7 para 6(6) CSPSSA Sch to HB&CTB (D&A) Regs, paras 1(f) and 3	Recovery of overpayments – landlords – scope of appeal rights where an overpayment is recoverable from more than one person
R(H) 7/06	Secretary of State v Wilson [2006] EWCA Civ 882 CH/3801/2004				

HB/CTB appeals decided by superior courts 2006

File number	Date	Council	Benefit	Legislation in issue	Keywords
WILSON Secretary of State v Wilson [2006] EWCA Civ 882 CH/3801/2004	29/06/06	Lincoln	HB	Section 1 SSAA	NI number requirement – whether applies to partner with no recourse to public funds
Secretary of State v Selby DC & Bowman [2006] EWCA Civ 271 (CH/1854/2004)	13/02/06	Selby	HB	Reg 5 HB Regs	Occupation of the home – entry into residential accommodation on a trial basis – position where residence becomes permanent