

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

HB/CTB Decisions published on Commissioners' website in 2007

File number	Date	Council	Benefit	Legislation in issue	Keywords
CH/3700/2006 To be reported as R(H) 7/08	30/11/07	Wigan	HB CTB	Sch 6, Para 12.HB Regs 2006	Whether a caravan is capital and, if so, whether to be disregarded as a personal possession
CH/4248/2006	19/11/07	Chichester	HB CTB	S 115 Immigration and Asylum Act 1999 10(4) HB Regs 2006 Reg 2(1) and Sch 1 para 1 Social Security (Immigration and Asylum) Cons Amdts Regs 2000 Reg 7(5) CTB Regs 2006	Housing benefit – subject to immigration control – no recourse to public funds – the extent of the exception for temporary interruption of funds

CH/1246/2007 To be reported as R(H) 6/08	17/10/07	Oxford	HB	'Old' reg 11 HB Regs 1987	Whether accommodation is 'exempt accommodation' where support is provided to the tenant by a third party who acts on behalf of the landlord in some other respect (but not in providing support)
CH/39/2007 Heard with CH/55/2007 & CH/58/2007 as lead cases.	27/09/07	Wirral	HB	Regulation 9(1) of the Housing Benefit Regulations 2006	Supported accommodation – increase in rents and charges – meaning of 'take advantage of the scheme'
CH/3076/2006	21/09/07	Brent	CTB	Regs 77 & 84(5) CTB Regs 1992	Council tax benefit- recovery of excess benefit- whether advance credit to council tax account is excess benefit
CH/2995/2006	21/09/07	Rochdale	CTB	Regs 11 to 14 HB & CTB (D and A) Regs 2001	Termination for failure to provide information- date from which decision is effective- effect of failure to give notice of the period within which information is required
CH/1099/2007 To be reported as R(H) 5/08	17/09/07	Bassetlaw	CTB	S136 SSCBA Reg 22 CTB Regs 1987	Earnings and other income – self employed – whether losses in claimant's business be offset against partner's employed earnings.

CH/402/2007 To be reported as R(H) 4/08	05/09/07	Cardiff	CTB	Reg 14 HB & CTB (D and A) Regs 2001	Termination following suspension – decision is appealable
CH/1384/ 2007	04/09/07	Stoke-on-Trent	CTB	Regulation 68(5) CTB (Persons who have attained the qualifying age for State Pension Credit) Regulations 2006	Recovery of excess benefit credited for a forward period because of official error. Whether any limits on local authority's power to recover.
CH/136/2007	23/08/07	Harlow	HB	Regs 6 and 7 HB Regs 1987	Whether Council can look at whole of project to consider if tenancy is authorised
CH/779/2007	17/08/07	Hounslow	HB	Para. 4(10) of Schedule 3 to the HB & CTB (Consequential Provisions) Regs 2006	Interim decision. Supported accommodation – relevance of support available to, but not taken advantage of by tenant
CH/3631/2006	10/08/07	Ipswich	HB CTB	Reg 21 HB & CTB (D and A) Regs 2001	Procedure – death of claimant after leave to appeal against tribunal decision granted to LA by chairman – local authority has no power to appoint appointee at that stage

CH/3933/2006 To be reported as R(H) 3/08	26/07/07	Hackney	CTB	S 131 SSCBA 1992	Dwelling – sole or main residence – whether claimant can qualify as resident of more than one chargeable dwelling
CH/2638/2006	05/07/07	Doncaster	HB	Reg 5(8) & (8ZA) HB regs 1987 Reg 72(15) HB regs 1987	Temporary absence – prisoner recalled from license. Backdating – general approach and special facts.
CH/1289/2007	03.07/07	Bury	HB	‘Old’ reg 11 HB Regs 1987	Exempt accommodation – test applies to claimant's accommodation, not to the building as a whole
CH/2060/2006	28/07/07	Hillingdon	HB CTB	Reg 7A(5)(e) HB Regs 1987 Reg 4A CTB Regs 1992	JSA paid on basis of incorrect information from Home Office – no official error – HB/CTB correctly paid because of receipt of JSA
CH/4373/2006 To be reported as R(H) 8/07	07/06/07	Camden	HB	Reg 10 HB Regs 1987	Whether freeholder of a dwelling subject to a long lease at a low rent is the ‘owner’ of the dwelling
CH/180/2006	25/05/07	Islington	HB	Regs 77, 92, 93 & 94 HB Regs 1987	Joint application by landlord and tenant for housing benefit to be paid direct to landlord ignored by Council – duty of Council to notify landlord Defective notification of hearing date.

CH/2042/2006 To be reported as R(H) 9/07	22/05/07	Swansea	HB	Reg 65(1) & (2) Reg 72(11 HB Regs	Housing Benefit – advance claims – when regulation 72(11) applies to assist an advance claim to be considered under regulation 65(1) & (2) R(H) 4/04 considered and distinguished
CH/3282/2006	02/05/07	Wandsworth	HB	Reg 7(1)(a) HB Regs 1987	Whether tenancy on a commercial basis
CH/48/2006 Added 27.06.07	24/04/07	Bedford	CTB	Reg 63 CTB Regs 1992	Calculation of non-dependant's earnings in the absence of evidence of actual earnings – local authority's duty to assess the claim on the evidence available and on the balance of probabilities See HB/CTB General Information Bulletin G8/2007
CH 3736 2006 Added 07.06.07	20/04/07	Liverpool	HB CTB	Ss 75 & 76 SSAA 1992 Regs 91, 91A & 98 HB Regs 1987 Regs 56A, 58, 83 CTB Regs 1992	Cessation of IS or JSA(IB) no longer automatically ends entitlement to HB/ CTB
CH/1821/2006 To be reported as R(H) 1/08	03/04/07	Manchester	HB CTB	Reg 95 HB/CTB Regs 2006	Appeals on payment to landlord- not limited to judicial review grounds. Suspension of payment while change in arrangements for payment

CH/3629/2006 To be reported as R(H) 2/08	03/04/07	Wirral	HB	Regs 94 – 96 HB/CTB Regs 2006	When housing benefit has been paid to the tenant, is it possible thereafter to pay housing benefit to the landlord in respect of the same period
CSH/499/2006	09/03/06	Dundee	HB	Reg 5(8) HB Regs 1987	Whether 'first day of absence from home' extends to the date on which prisoner was first remanded
CH/3811/2006 To be reported as R(H) 7/07	07/03/07	Manchester	HB	Reg 11 of 1987 Regulations as re-enacted in Sch 3 para. 4(10) HB/CTB (Consequential Provisions) Regs 2006	Rent restrictions – 'exempt accommodation' – whether 'care, support or supervision' is provided by the landlord to the tenant where the landlord is not the main provider of support – whether the support must be more than <i>de minimis</i>
CH/2913/2005 To be reported as R(H) 10/07	02.03.07	Wolverhampton	HB	S75 SSAA 1992 Reg 2 HB (Recovery of Overpayments) Regulation 1997	Recoverability of overpayments from landlord's agent
CH/3309/2006	20/02/07	Bristol	CTB	S76 Social Security Administration Act 1992 and reg 84 CTB Regs 1992	Excess council tax benefit – whether reasonably expected to realise excess benefit being allowed
CH/3450/2006	22/01/07	Rhondda-Cynon-Taff	HB	Reg 7(1)(h) HB Regs 1987	Claimant previously owned dwelling – relevance of claimant's perceptions

CH/3860/2005 To be reported as R(H) 5/07	09/01/07	Bromley	HB CTB	Reg 31 HB Regs 1987	Earnings and other income – calculation: self employed – whether repayment of capital on a loan used to purchase a replacement car are deductible expenses – whether repayments of capital and interest apportionable in accordance with proportion of business use
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HB/CTB decisions selected for reporting in 2007

Reported as	File number	Council	Benefit	Legislation in issue	Keywords
R(H) 1/07	CH/2812/2005	Ealing	HB	Reg 20 HB & CTB and Council Tax Benefit (D&A) Regs 2001	Collateral challenge to High Court order – whether tribunal's jurisdiction to hear appeal depends on referral by local authority
R(H) 2/07	CH/423/2006 CH/424/2006 Ch/425/2006	Sheffield	HB	Old regulation 11 HB Regs 1987	Rent restrictions – exemption where housing-related support provided – whether provider 'acting on behalf of landlord'

<u>R(H) 3/07</u>	CH/883/2006	Liverpool	HB	Regulation 10(2)(a) HB Regs 1987	Eligible payments – meaning of ‘long tenancy’
<u>R(H) 4/07</u>	CSH/149/2006	Glasgow	HB	Regs 5(5)(e)(i) and 5(6)(c)(ii) HB Regs 1987	Delay moving into dwelling where delay was necessary in order to adapt dwelling to meet disablement needs – meaning of ‘adapt’
<u>R(H) 5/07</u>	CH/3860/2005	Bromley	HB CTB	Reg 31 HB Regs 1987	Calculation of income – self employed earnings – deductible expenses – whether repayments of capital on a loan used to purchase a replacement car are deductible – whether repayments of capital and interest apportionable in accordance with proportion of business use
<u>R(H) 6/07</u>	CH/3450/2006	Rhondda-Cynon-Taff	HB	Reg 7(1)(h) HB Regs 1987	Liability to make payments in respect of a dwelling – claimant previously owned dwelling – relevance of perceptions

R(H) 7/07	CH/3811/2006	Bromley	HB CTB	Reg 11 of 1987 Regulations as re-enacted in Sch 3 para. 4(10) HB/CTB (Consequential Provisions) Regs 2006	Rent restrictions – exemption where housing-related support provided – whether ‘care, support or supervision’ is provided by the landlord to the tenant where the landlord is not the main provider of support – whether the support must be more than <i>de minimis</i>
R(H) 8/07	CH/4373/2006	Camden	HB	Reg 10 HB Regs 1987	Liability to make payments in respect of a dwelling – payments by an owner – whether freeholder of a dwelling subject to a long lease at a low rent is the ‘owner’ of the dwelling
R(H) 9/07	CH/2042/2006	Swansea	HB	Reg 65(1) & (2) Reg 72(11) HB Regs	Advance claims – when regulation 72(11) applies to assist an advance claim to be considered under regulation 65(1) and (2) of the Housing Benefit (General) Regulations 1987
R(H) 10/07	CH/2913/2005	Wolverhampton	HB	S75 SSAA 1992 Reg 2 Housing Benefit (Recovery of Overpayments) Regulation 1997	Whether overpayment can be recovered from landlord’s agent

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](#).

HB/CTB cases appealed to superior courts in 2007

File number	Date	Council	Benefit	Legislation in issue	Keywords
CH/2123/2006	01.11.06	South Gloucestershire	HB	Reg 7(1)(d) HB Regs 1987	<p>Home provided for claimant by former partner under terms of court order and held on trust – whether caught by reg 7</p> <p><i>Leave to appeal granted by Court of Appeal on 06.07.07 – Benning v S Gloucestershire District Council</i></p> <p>Dismissed by consent 13.02.08</p>
CH/1220/2005 CIS/1216/2005 Reported as R(IS) 4/08	20.07.06	Chichester	HB	Regs 49(4) and 51(3) SSCS (D&A) Regs Regulations 1999	<p>Recoverability of overpayment of HB when IS removed</p> <p>Whether tribunal should adjourn pending criminal proceedings</p> <p><i>Heard 13.11.07 – Mote v Secretary of State for Work and Pensions and another</i></p> <p>Judgment 14.12.07 [2007] EWCA Civ 1324</p>