

Decisions of Upper Tribunal (Administrative Appeals Chamber) on Housing Benefit and Council Tax Benefit

HB/CTB Decisions published on Upper Tribunal (AAC) website in 2010

(Last updated 05 November 2010)

Case	Date of decision	Legislation in issue	Keywords
<i>PJ v Dover DC (HB)</i> [2010] UKUT 354 (AAC) CH/3189/2009 CH/3190/2009	28/09/10	Reg 9(1) HB Regs 2006	Rent payable to a company owned by the claimant and his wife who are not living together
<i>TK v LB Bexley (CTB)</i> [2010] UKUT 316 (AAC)	31/08/10	Regs 83 and 85 CTB Regs 2006	Claimant aware her earnings had not been taken into account in calculating benefit
<i>Bradford MDC v MR (HB)</i> [2010] UKUT 315 (AAC) CH/662/2010	25/08/10	Reg 9(1)(h) HB Regs 2006	Nature and degree of occupancy to satisfy the premises to reg 9(1)(h) of the Housing Benefit Regulations 2006

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<u>SD v Newcastle CC (HB)</u> <u>[2010] UKUT 306 (AAC)</u> CH/872/2009	17/08/10	Sch 4 para 12 Sch 5, para 4 Sch 6 para 5 HB Regs 2006 (and CTB equivalents)	Recovery of overpayment – decision purporting to supersede decision awarding income support not notified to claimant – income support for that period remained intact and therefore no ground for supersession of HB/CTB
<u>DN v Leicester CC (HB)</u> <u>[2010] UKUT 253 (AAC)</u> CH/2877/2009	21/07/10	Reg 41(2) HB Regs 2006	Recovery of overpayment – nature of annuity payment Revision – drafting of transitional rules in Transfer of Functions Order
<u>Wirral MBC v AL (HB)</u> <u>[2010] UKUT 254 (AAC)</u> CH/2731/2009	20/07/10	Reg 96(3A) HB Regs 2006	Payment to landlord in LHA areas
<u>GM-S v Barrow BC (HB)</u> <u>[2010] UKUT 247 (AAC)</u> CH/1153/2009	15/07/10	Reg 7(1) HB Regs 1987 Reg 9(3) HB Regs 2006	Company owned by trust of which tenant is a beneficiary lets dwelling to tenant.
<u>SG v Tameside MBC (HB)</u> <u>[2010] UKUT 243 (AAC)</u> CH/15/2009	15/07/10	Regulation (EEC) No. 1408/71	Do the provisions of Regulation (EEC) No. 1408/71 applicable to the receipt by an EU citizen of NHS care mean that she has “comprehensive sickness insurance cover” in the host member State? When and how does the test of “sufficient resources” fall to be applied?

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<i>Kingston upon Hull CC v DLM (HB)</i> [2010] UKUT 234 (AAC) CH/2270/2009	06/07/10	S130(1)(c) SSCBA 1992 Reg 35 HB Regs 2006 Reg 100(3) HB Regs 2006	Earnings and other income – compensation payments – local authority workers' equal treatment claims and payments in lieu of remuneration Housing and council tax benefit – recovery of overpayments – official error and meaning of “relevant authority”.
<i>Wirral MBC v AH (HB)</i> [2010] UKUT 208 (AAC) CH/1608/2009	24/06/10	Regs 7, 11(1)(b) and 20 HB Regs 2006	Occupation of the home etc – foster children to be taken into account as occupiers for LHA purposes. Rent restrictions – LHA does not make reg 20 any less relevant.
<i>ET v Rossendale BC (HB)</i> [2010] UKUT 222 (AAC) CH/3677/2009	15/06/10	Alternative regs 12 and 13 and Sch 1 Part 1 HB Regs 2006	Ineligible service charges, excessive service costs – concierge costs and administration of concierges; voids and bad debts; presenting officer's evidence. Lack of comparable service is no bar to finding a cost is excessive; no set rate in calculating voids or bad debts
<i>SK v South Hams DC (HB)</i> [2010] UKUT 129 (AAC) CH/2197/2009 To be reported as [2010] AACR 40	29/05/10	Paras 1(2), 2(a) 6(2)(c) Sch 7 CSSSPA Reg 7(13),(16) and (17) HB Regs 2006	Whether question whether person is an occupier is appealable Whether student absent from parental home to live in hall of residence for term of less than 13 weeks is to be treated as occupying the parent's home for purposes of parent's claim

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<u>SA v LB Newham (HB) [2010] UKUT 191 (AAC)</u> CH/2723/2009	27/05/10	Regs 8 and 9(1)(a) and (e) HB Regs 2006	Liability, non-commerciality and contrivance – erroneous running together of three separate and distinct provisions – failure to give sufficient reasons to support any of the grounds satisfactorily
<u>West Somerset DC v JMA (HB) [2010] UKUT 190 (AAC)</u> CH/2735/2009	26/05/10	Reg 1001(1) HB Regs 2006	Failure of council to advise claimant that change of circumstances must be notified in writing and failure to deal properly with oral notification
<u>LB Merton v CM (HB) [2010] UKUT 123 (AAC)</u> CH/1221/2009	09/04/10	Reg 1001(1) HB Regs 2006	Overpayment – whether reasonable for claimant to expect benefit office of LA to know that claimant had become full-time student loan in receipt of student loan from same authority – application of <i>R (Sier) v Cambridge City Council</i> [2001] EWCA Civ 1523
<u>LB Bexley v LD (HB) [2010] UKUT 79 (AAC)</u> CH/270/2009	11/03/2010	Reg 14 HB Regs 2006 Sch 7, para 6(1) Child Support, Pensions and Social Security Act 2000	Rent officer's determination on size criteria unappealable – appeal against outcome decision incorporating disputed information possible – meaning of occupier

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<u>UH v LB Islington (CTB)</u> <u>[2010] UKUT 64 (AAC)</u> CH/2469/2009	25/02/2010	Reg 69(14) CTB Regs 2006	Good cause for late claim – meaning of 'good cause' – claimant liable for CT in different authority from that paying HB – reasonableness to be considered in light of circumstances of claimant
<u>SN v Hounslow BC (HB)</u> <u>[2010] UKUT 57 (AAC)</u> CH/2297/2009 To be reported as [2010] AACR 27	18/02/2010	Regs 99 – 100 HB Regs 2006 Regs 82 – 83 CTB Regs 2006	Recovery of overpayments – official error and separate causation – any overpaid amounts identifiable as attributable to separate and distinct causes, though comprised in the same total payment or credit as others, may need to be separated out and the causal and other inquiries required by regulation 100 applied to them separately
<u>FH v Manchester CC (HB)</u> <u>[2010] UKUT 43 (AAC)</u> CH/2263/2009	15/02/2010	Reg 9 HB Regs 2006	Liability, commerciality and contrivance. – landlord's failure to take possession proceedings does not mean tenancy necessarily non-commercial, given delays in LA handling of his claim
<u>MH v Pembrokeshire CC (HB)</u> <u>[2010] UKUT 28 (AAC)</u> CH/2873/2009	29/01/2010	Rules 27 and 5(3)(h) Tribunal Procedure (First-tier Tribunal) (Social Entitlement Chamber) Rules 2008	Tribunal procedure – fair hearing – correct approach to paper hearings – the role of the overriding objective – tribunal failed to adjourn for medical evidence to be obtained.

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<u>NC v Tonbridge & Malling BC (HB)</u> <u>[2010] UKUT 12 (AAC)</u> CH/978/2009	19/01/2010	Regs 29, 83 & 86 HB Regs 2006	Claim – required information – claimant just started work – whether claim defective for lack of payslips if no payslips are available – estimate of average weekly earnings in new employment to be obtained by local authority, not claimant
<u>BG v LB Hillingdon (HB)</u> <u>[2010] UKUT 11 (AAC)</u> CH/1987//2009	18/01/2010	S130(1)(c)(i)) SSCBA 1992	Extent to which local authority bound by DWP income support decision (<i>Menear, Hamilton</i>)
<u>Torbay BC v RF (HB)</u> <u>[2010] UKUT 7 (AAC)</u> CH/1986/2009 To be reported as [2010] AACR 26	14/01/2010	Reg 7(13) and (16) HB Regs 2006	Occupation of the home and temporary absence – whether prisoner temporarily absent when undergoing medical treatment in prison
<u>IB v Barnsley MBC</u> <u>[2009] UKUT 279 (AAC)</u> CH 2103 2009	17/12/2009	S131 SSCBA Reg 57 CTB Regs 2006	CTB is a daily benefit and the daily taper of 2 6/7 per cent must be converted to a weekly taper of 20 per cent
<u>LB Brent v HN</u> <u>[2009] UKUT 289 (AAC)</u> CH/225/2009	11/12/2009	Reg 104 HB regs Reg 89 CTB Regs	Married couple living together – circumstantial evidence – overpayment – requirement to calculate underlying entitlement.

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EM v London Borough of Waltham Forest [2009] UKUT 245 (AAC) CH/3829 /2008 (HB & CTB)	26/11/2009	Reg 68 HB (General) Regs 1987 Reg 100(1) HB Regulations 2006	Capital – payment under compromise agreement to settle dispute involving local authority part- time workers – whether capital or income. Recovery of overpayments – application of reg 68 (now reg 79) to arrears of income – scope of ‘official error’ where local authority is both the employer and HB authority for claimant
Walsall BC v GP Ltd [2009] UKUT 247(AAC) CH/761/2007 Reported as [2010] AACR 16	26/11/2009	S75(3(a)) SSAA 1992 Reg 101(2) HB (General) Regs 1987	Whether overpayment of HB paid direct to landlord's agent is recoverable from landlord as well as from agent

HB/CTB decisions selected for reporting in 2010

Reported as	Title and NCN	Keywords
[2010] AACR 2	<p>Chorley BC v IT [2009] UKUT 107 (AAC)</p> <p>(CH/150/2007, CH/151/2007, CH/154/2007)</p>	<p>Housing benefit – rent restrictions – exemption where housing-related support provided – whether accommodation can be ‘provided’ by a body other than the landlord</p> <p>Housing benefit – rent restrictions – exemption where housing-related support provided – whether undertaking maintenance can be the provision of support</p>
[2010] AACR 4	<p>Hillingdon LBC v MJ [2009] UKUT 151 (AAC)</p> <p>CH/3079/2007</p>	<p>Residence and presence conditions – person from abroad – whether local authority bound by decision on claim for income support or income-based JSA</p>
[2010] AACR 6	<p>Novitskaya v LB of Brent & SSWP [2009] EWCA Civ 1260</p> <p>CH/3530/2007</p>	<p>Claim – whether request for benefits in general terms can constitute claim for housing benefit</p>

[2010] AACR 16	<i>Walsall BC v GP Ltd</i> [2009] UKUT 247(AAC) CH/761/2007	Whether overpayment of housing benefit paid direct to landlord's agent is recoverable from landlord as well as from agent
[2010] AACR 26	<i>Torbay BC v RF (HB)</i> [2010] UKUT 7 (AAC) CH/1986/2009	Occupation of the home and temporary absence – convicted prisoner serving 15 weeks in prison – meaning of “undergoing medical treatment in accommodation other than residential accommodation”
[2010] AACR 27	<i>SN v Hounslow BC (HB)</i> [2010] UKUT 57 (AAC) CH/2297/2009	Recovery of overpayments – official error and separate causation – any overpaid amounts identifiable as attributable to separate and distinct causes, though comprised in the same total payment or credit as others, may need to be separated out and the causal and other inquiries required by regulation 100 applied to them separately
[2010] AACR 40	SK v South Hams DC (HB) [2010] UKUT 129 (AAC) CH/2197/2009	Whether question whether person is an occupier is appealable Whether student absent from parental home to live in hall of residence for term of less than 13 weeks is to be treated as occupying the parent's home for purposes of parent's claim

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 or phrase. See [Help with searching](#).