

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

HB/CTB Decisions published on Upper Tribunal (AAC) website in 2012

(Last updated 28 June 2012)

Case	Date of decision	Legislation in issue	Keywords
MB v LB Greenwich (HB) [2012] UKUT 88 (AAC) CH/2092/2011	09/03/12	Reg 101 HB Regs 2006	No recovery from landlords where overpayment to them is in consequence of non-disclosure by tenant.
DW v Oxford CC (HB) [2012] UKUT 52 (AAC) CH/1344/2011	15/02/12	Reg 11 HB Regs 1987 Reg 10 HB (General) Amendment Regs 1995	Exempt accommodation – whether landlord providing support to tenant.

Case	Date of decision	Legislation in issue	Keywords
Wychavon District Council v EM (HB) [2012] UKUT 12 (AAC) CH/171/2011	06/01/12	Regs 8, 9 & 12 HB Regs 2006	Review under section 10 of the 2007 Act and rules 45 and 46 of the UT Procedure Rules of [2011] UKUT 144 (AAC) re liability for rent (130(1)(a) of SSCBA 1992). Accommodation a necessary and therefore claimant liable to pay a reasonable sum in respect of it (s.7 of the Mental Capacity Act 2005)

HB/CTB decisions selected for reporting in 2012

Reported as	Title and NCN	Keywords
<p>[2012] AACR 21</p>	<p><u><i>Glasgow City Council v AL (HB) [2011] UKUT 354 (AAC)</i></u> CSH/168/2010</p>	<p>Proper test to be applied by tribunals in Scotland in determining whether a claimant has legal capacity to enter a contract of lease – mental capacity must be judged with reference to the transaction in issue – the presumption of capacity can be overcome only by independent and informed evidence – appointment of appointee is not conclusive</p>
<p>[2012] AACR 22 (Court of Appeal decision)</p>	<p><u><i>Kingston upon Hull CC v DLM (HB) [2010] UKUT 234 (AAC)</i></u> CH/2270/2009 <u><i>Minter v Kingston-upon-Hull CC & Potter v SSWP 13.10.11 [2011] EWCA Civ 1155</i></u></p>	<p>Earnings and other income – compensation payments – local authority workers’ equal treatment claims and payments in lieu of remuneration</p> <p>Recovery of overpayments – official error and meaning of “relevant authority”.</p>
<p>[2012] AACR 37 (Court of Appeal decision)</p>	<p><u><i>Salisbury Independent Living v Wirral MBC (HB) [2011] UKUT 44 (AAC)</i></u></p>	<p>UT decision reversed by Court of Appeal</p>

	<i>Wirral MBC v Salisbury Independent Living</i> [2012] EWCA Civ 84	
[2012] AACR 38 (Court of Appeal decision)	<i>JB v Oxford City Council (HB)</i> [2011] UKUT 136 (AAC) <i>Oxford City Council v Basey</i> [2012] EWCA Civ 115	Housing and council tax benefits – eligible rent – service charges – meaning of "sheltered accommodation" UT decision upheld by Court of Appeal

HB/CTB cases appealed to superior courts in 2012

Case	Date of decision	Keywords
<i>Minter v Kingston upon Hull CC</i> [2011] EWCA Civ 1155	13/10/10	Earnings and other income – compensation payments – local authority workers' equal treatment claims and payments in lieu of remuneration.
CH/2270/2009 <i>Kingston upon Hull CC v DLM (HB)</i> [2010] UKUT 234 (AAC)	06/07/10	Housing and council tax benefit – recovery of overpayments – official error and meaning of "relevant authority". May be further appeal to the Supreme Court
Burnip,,Tregrove and Gorry v Secretary of State and	CA 15./06/12	Human rights law – article 14 (non-discrimination) – failure of housing benefit rules to differentiate in favour of disabled claimant

<p>others [2012] EWCA Civ 629</p> <p>CH/2823/2009 IB v Birmingham CC v SSWP v EHRC (HB) 2011 UKUT 23 AAC</p> <p>CH/851/2010 Walsall MBC v LT (HB) [2011] UKUT 172 (AAC).</p> <p>CH/1312/2010 RG v Secretary of State for Work and Pensions and North Wiltshire District Council [2011] UKUT 198 (AAC)</p>		<p>DWP have applied for permission to appeal to Supreme Court</p>
-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--	--------------------------------------------------------------------------

<p>CH/2823/2009 IB v Birmingham CC v SSWP v EHRC (HB) 2011 UKUT 23 AAC PH 13.01.11 (Circulated)</p> <p>Last updated 01.06.12</p>	<p>Burnip v Birmingham CC</p>	<p>Human rights law – article 14 (non-discrimination) – failure of housing benefit rules to differentiate in favour of disabled claimant</p>	<p><i>Permission to appeal given by PLH on 03.05.11</i></p> <p><i>Window of 14-Nov-11 to 14- Mar-12</i></p> <p><i>Float on 21-Mar-12 or 22- Mar-12</i></p> <p>Hearing concluded, judgment reserved 22.03.12</p> <p>Judgment 15.05.12 [2012] EWCA Civ 629</p> <p>DWP have applied for permission to appeal to Supreme Court</p>
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<p>CH/851/2010 Walsall MBC v LT (HB) [2011] UKUT 172 (AAC). EJ 21.03.11</p> <p>Last updated 01.06.12</p>	<p>Trengove v Walsall MBC</p>	<p>Human rights law – article 14 (non-discrimination) – failure of housing benefit rules to differentiate in favour of disabled claimant <i>IB v Birmingham</i> followed</p>	<p>Permission to appeal given by EJ on 19.04.11</p> <p>Window of 29-Nov-11 to 29-Mar-12</p> <p>Float on 21-Mar-12 or 22-Mar-12</p> <p>Appellant deceased: Rebecca Trengove substituted as party 06.03.12</p> <p>Hearing concluded, judgment reserved 22.03.12</p> <p>Judgment 15.05.12 [2012] EWCA Civ 629</p> <p>See Burnip</p>
-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<p>CH/1312/2010 RG v Secretary of State for Work and Pensions and North Wiltshire District Council [2011] UKUT 198 (AAC) CT 05.05.11</p> <p>Last updated 01.06.12</p>	<p>C3/2011/2572 Gorry v Secretary of State for Work and Pensions and Another</p>	<p>Whether special provision required for disabled children unable to share a bedroom.</p>	<p>PTA refused by CT 26.08.11</p> <p>PTA given by CA</p> <p>Window of 06-Mar-12 to 06-Jul-12</p> <p>Float on 21-Mar-12 or 22-Mar-12</p> <p>Hearing concluded, judgment reserved 22.03.12</p> <p>Judgment 15.05.12 [2012] EWCA Civ 629</p> <p>See Burnip</p>
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

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](#).