

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

### HB/CTB Decisions published on Upper Tribunal (AAC) website in 2014

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Case	Date of decision	Legislation in issue	Keywords
<a href="#">CS v Chelmsford Borough Council (HB)</a> <a href="#">[2014] UKUT 518 (AAC)</a> CH/2281/2014	18/11/2014	Section 134(1) Social Security Contributions and Benefits Act 1992 Regs 33 to 39 Council Tax Benefit Regulations 2006	Whether assets subject to a restraining order under the Proceeds of Crime Act 2002 were to be treated as capital.
<a href="#">Secretary of State for work and Pensions v James Nelson and David Nelson (HB)</a> <a href="#">[2014] UKUT 525 (AAC)</a> CSH/41/2014 CSH/42/2014	26/11/2014	Regulation B13 of the Housing Benefit Regulations 2006/13	Whether bedroom size was the determinative issue for under occupancy– the flip side of overcrowding – whether the F-tT erred by treating the Amended Housing Benefit Regs 2012 as being <i>in pari materia</i> with the Housing (Scotland) Act 1987 – whether the test in the 2012 Regs was the availability of rooms which could be used as bedrooms
<a href="#">SL v Renfrewshire Council (HB)</a> <a href="#">[2014] UKUT 411 (AAC)</a> CSH/969/2013	13/08/2014	Reg 76 & 80 HB Regs 2006	Whether entitlement for benefit for a new property starts once the claimant occupied the property or from the point at which they became liable to make payments in respect of the property.

<p><a href="#"><u>Blackburn with Darwen Borough Council v DA (HB)</u></a>  <a href="#"><u>[2014] UKUT 431 (AAC)</u></a>  CH/1991/2014</p>	<p>25/09/2014</p>	<p>Reg 12(1) &amp; (2)  HB Regs 2006</p>	<p>Meaning of shared ownership tenancy and long tenancy for the purposes of Regs 12(2)(a) and 2(1) of the Housing Benefit Regulations 2006</p>
<p><a href="#"><u>MN v London Borough of Hillingdon (HB)</u></a>  <a href="#"><u>[2014] UKUT 427 (AAC)</u></a>  CH/4417/2013</p>	<p>18/09/2014</p>	<p>Reg 6, 43, 47 &amp; 51 HB  Regs 2006  Reg 2(5), 37 &amp; 41 CTB  Regs 2006</p>	<p>Proper approach to the valuation of the claimant's beneficial interest in the former marital home now solely occupied by his mentally ill wife. Also confirmed that two persons shall be taken to be estranged if their estrangement constitutes a breakdown of the relationship between them (although the marriage has not been ended by divorce or the civil partnership by dissolution)</p>
<p><a href="#"><u>Secretary of State for Work and Pensions v VM (HB)</u></a>  <a href="#"><u>[2014] UKUT 466 (AAC)</u></a>  CSH/589/2014</p>	<p>05/09/2014</p>	<p>Article 14 European  Convention on Human  Rights</p>	<p>Whether a deduction for under occupation breached Article 14 of the European Convention on Human Rights – the claimant suffered from various disabilities, including epilepsy, and stated that she required a third bedroom for dressing and storage.</p>
<p><a href="#"><u>Secretary of State for Work and Pensions v MS and Inverclyde Council (HB)</u></a>  <a href="#"><u>[2014] UKUT 465 (AAC)</u></a>  CSH/188/2014</p>	<p>04/09/2014</p>	<p>Article 14 European  Convention on Human  Rights</p>	<p>Whether a deduction for under occupation breached Article 14 of the European Convention on Human Rights read with Article 1 of the First Protocol of the Convention – the appellants were a couple one of whom required a separate bedroom due to severe disability.</p>

<p><a href="#"><u>KP v RB of Kensington and Chelsea (HB)</u></a>  <a href="#"><u>[2014] UKUT 393 (AAC)</u></a>  CH/1782/2014</p>	<p>03/09/2014</p>	<p>Section 75 of the Social Security Administration Act 1992   HB Regs 2006</p>	<p>Whether the Council was limited to recovering from the claimant the particular amount specified in a court's compensation order for overpaid HB following the claimant's conviction for benefit fraud and the making of a compensation order by the criminal court.</p>
<p><a href="#"><u>KR v Secretary of State for Work and Pensions (HB)</u></a>  <a href="#"><u>[2014] UKUT 464 (AAC)</u></a>  CSH/372/2014</p>	<p>28/08/2014</p>	<p>Equality Act 2010</p>	<p>Whether a deduction for under occupation breached the Equality Act 2010 the claimant being disabled</p>
<p><a href="#"><u>AN v Glasgow City Council and Secretary of State for Work and Pensions (HB)</u></a>  <a href="#"><u>[2014] UKUT 463 (AAC)</u></a>  CSH/374/2014</p>	<p>22/08/2014</p>	<p>Equality Act 2010</p>	<p>Whether a deduction for under occupation breached the Equality Act 2010 the claimant being disabled</p>
<p><a href="#"><u>PC v Secretary of State for Work and Pensions (HB)</u></a>  <a href="#"><u>[2014]UKUT 467 (AAC)</u></a>  CSH/777/2014</p>	<p>15/08/2014</p>	<p>Article 8 European Convention on Human Rights</p>	<p>Whether a deduction for under occupation breached Article 8 of the European Convention on Human Rights – the appellant occupied a two bedroom property and used the second bedroom for his 14 year old son who stayed for 3 nights each week.</p>

<p><a href="#"><u><i>SL v Renfrewshire Council (HB)</i></u></a>  <a href="#"><u>[2014] UKUT 411 (ACC)</u></a>          CSH/969/2013</p>	<p>13/08/2014</p>	<p>Regs 76(2) and 80(3)(a) HB Regs 2006</p>	<p>Where the date of commencement of a tenancy and the date of commencement of occupation were different then housing benefit was only payable in respect of days when the claimant both occupied the dwelling as a home and was liable to make payments in respect of it.</p>
<p><a href="#"><u><i>DB v Liverpool City Council (HB)</i></u></a>  <a href="#"><u>[2014] UKUT 326 (AAC)</u></a>          CH/403/2013</p>	<p>10/07/2014</p>	<p>Reg 9 HB Regs 2006</p>	<p>Whether a tenancy was a sham and/or not on a commercial basis when the claimant claimed benefit for a flat that was owned by a company of which he was a director and that he claimed he rented from the company.</p>
<p><a href="#"><u><i>SD v Eastleigh Borough Council (HB)</i></u></a>  <a href="#"><u>[2014] UKUT 325 (AAC)</u></a>          CH/4319/2013</p>	<p>09/07/2014</p>	<p>A13 and B13 HB Regs 2006</p>	<p>Whether a 14% reduction to the appellant's eligible rent for under-occupying her home was correctly made on the basis that she was not entitled to the care component of disability living allowance for "night" attendance. The meaning of the word "regularly" distinguished from "normally" or "ordinarily" when considering whether a carer must "regularly" stay overnight.</p>
<p><a href="#"><u><i>VW v London Borough of Hackney (HB)</i></u></a>  <a href="#"><u>[2014] UKUT 227 (AAC)</u></a>          CH/2530/2013</p>	<p>12/06/2014</p>	<p>Reg 14 of HB and CTB Decisions and Appeals Regs 2001</p>	<p>Misuse of regulation 14 of HB and CTB Decisions and Appeals Regs 2001 - Limits on LA's powers to revise after one month - FtT's decision under appeal replaces that decision</p>

<p><a href="#"><u>South Kesteven District Council v GB (CTB)</u></a>  <a href="#"><u>[2014] UKUT 263 (AAC)</u></a>  CH/18/2014</p>	<p>10/06/2014</p>	<p>Reg 67(c) CTB Regs 2006</p>	<p>Meaning of "change of circumstances" in Reg 67 (c) of the Council Tax Benefit Regulations 2006</p>
<p><a href="#"><u>DLT v Eastleigh Borough Council (HB)</u></a>  <a href="#"><u>[2014] UKUT 242 (AAC)</u></a>  CH/249/2014</p>	<p>22/05/2014</p>	<p>Reg 96(1)(b) HB Regs 2006</p>	<p>Regulation 96(1)(b) permits direct payments to be made to a landlord without the claimant's consent where it is in the interest of them and their family. Whether the context requires a different meaning to be given to "family" from section 137(1) of the Social Security Contributions and Benefits Act 1992 where a claimant has no family but it is in their interest for such payments to be made.</p>
<p><a href="#"><u>KG v Luton Borough Council (HB)</u></a>  <a href="#"><u>[2014] UKUT 220 (AAC)</u></a>  CH/999/2014</p>	<p>20/05/2014</p>	<p>Reg 10 HB Regs 2006</p>	<p>Whether the First-tier Tribunal (F-tT) was wrong in refusing to consider whether the council's decision was issued in compliance with regulation 10. Whether the notice was defective, and so invalid, and whether the appellant was prejudiced by any defects.</p>
<p><a href="#"><u>JB v Secretary of State for Work and Pensions and Basingstoke and Deane Borough Council (HB)</u></a>  <a href="#"><u>[2014] UKUT 223 (AAC)</u></a>  CH/738/2009</p>	<p>15/05/2014</p>	<p>Reg 20 HB Regs 2006</p>	<p>Whether regulation 20 was properly applied by the council in its decision to exclude the appellant's daughter, in effect, from being a member of his 'family' for benefit purposes despite his having shared care for her.</p>

<p><a href="#"><u>AB v Secretary of State for Work and Pensions and Canterbury CC (IS and HB)</u></a>  <a href="#"><u>[2014] UKUT 212 (AAC)</u></a>  CH/2413/2013</p>	<p>12/05/2014</p>	<p>HB Regs 2006</p>	<p>The need for decision-makers and tribunals to make clear distinctions when making findings of fact as to whether a claimant has <i>actual</i> or <i>notional</i> capital. Where a claimant was treated as possessing <i>notional</i> capital what findings are required including application of the diminishing capital rule. The importance of a proper evidential basis when making an adverse credibility finding against a claimant.</p>
<p><a href="#"><u>Reigate and Banstead Borough Council v SA (HB)</u></a>  <a href="#"><u>[2014] UKUT 369 (AAC)</u></a>  CH/48/2014</p>	<p>09/05/2014</p>	<p>Regs 29 &amp; 79 HB Regs 2006</p>	<p>Whether earned income payable in arrears falls, for housing benefit purposes, to be attributed forward from the date of receipt rather than backwards over the period in respect of which it was earned.</p>
<p><a href="#"><u>MB v Christchurch Borough Council (HB)</u></a>  <a href="#"><u>[2014] UKUT 201 (AAC)</u></a>  CH/2605/2013</p>	<p>02/05/2014</p>	<p>Reg 100(1) (2) &amp; (3)  HB Regs 2006</p>	<p>Whether HB overpayment recoverable – child subject to shared residence order following parents’ separation, living in two households – father majority carer, mother minority carer and HB claimant; she included child on her HB claim form as member of her household – local authority’s official error in failing to include question on claim form about whether boy had other/usual address</p>
<p><a href="#"><u>Broxtowe Borough Council v CS (HB)</u></a>  <a href="#"><u>[2014] UKUT 186 (AAC)</u></a>  CH/3747/2013</p>	<p>24/04/2014</p>	<p>Reg 21 HB Regs 2006</p>	<p>HB and CTB – partners, couples and households – held that regulation 21 does not apply unless there is a partner and (in the absence of polygamy) there cannot be a partner unless there was a couple (as defined by regulation 2(1)). Were people are in different households they cannot be a couple and regulation 21 cannot turn them into a couple.</p>

<a href="#"><u><i>MN v Bury Council and Secretary of State (HB)</i></u></a> <a href="#">[2014] UKUT 187 (AAC)</a> CH/1445/2013	17/04/2014	Para 15(g) of Schedule 5 HB Regs 2008	Whether compensation from the Netherlands scheme for those persecuted under the National Socialists should be treated as from the German and Austrian schemes.
<a href="#"><u><i>SS v Edmundsbury Borough Council (HB)</i></u></a> <a href="#">[2014] UKUT 172 (AAC)</a> CH/1241/2013	14/04/2014	Reg 35 (1)(f)(i) HB Regs 2006	Whether a travel allowance paid by a claimant's employer should be treated as pay or a reimbursement of expenses.
<a href="#"><u><i>SB v Oxford City Council (HB)</i></u></a> <a href="#">[2014] UKUT 166 (AAC)</a> CH/1349/2011	08/04/2014	Part 7 HB Regs 2006	Whether the whole of a bursary received by a student from their university should be treated as part of their grant income for the purpose of calculating their entitlement to housing benefit.
<a href="#"><u><i>JR v Leeds County Council (HB)</i></u></a> <a href="#">[2014] UKUT 154 (AAC)</a> CH/2186/2013	01/04/2014	Article 7(1)(a) of Directive 2004/38/EC	A person in receipt of carer's allowance is not thereby a worker or self-employed for the purposes of Article 7
<a href="#"><u><i>SS &amp; SA v Birmingham City Council and Secretary of State (HB)</i></u></a> <a href="#">[2014] UKUT 137 (AAC)</a> CH/1988/2012 CH/3332/2012	11/03/2014	Reg 13 HB Regs 2006	Whether the rent charged by a women's refuge (with no funding) was unreasonably high by comparison with the rent charged by other charities which were publically funded.

<p><a href="#"><u><i>IN v London Borough of Hillingdon (HB)</i></u></a>  <a href="#"><u>[2014] UKUT 78 (AAC)</u></a>  CH/1277/2013</p>	<p>14/02/2014</p>	<p>Reg 8(1)(c) HB Regs 2008   Reg 24(4)(a), 24(4)(b) &amp; 24(5) Tribunal Procedure (First-tier Tribunal) (SEC) Rules 2008</p>	<p>Council's duty to provide the tribunal and claimant with all relevant documents before the hearing. Tribunal's duty to ensure claimant was aware there would be an oral hearing even though the claimant had said he did not want one</p>
<p><a href="#"><u><i>TA v London Borough of Islington (HB)</i></u></a>  <a href="#"><u>[2014] UKUT 71 (AAC)</u></a>  CH/3295/2012</p>	<p>12/02/2014</p>	<p>Reg 100 HB Regs 2006</p>	<p>Overpayment - need to investigate basis of the appellant's belief as to level of benefit he thought he was entitled to in order to assess whether he could reasonably have been expected to realise he was being overpaid - test is subjective - <i>Hull City Council v JS (HB)</i> [2012] UKUT 477 followed and approved</p>
<p><a href="#"><u><i>Guildford Borough Council v MW (HB)</i></u></a>  <a href="#"><u>[2014] UKUT 49 (AAC)</u></a>  CH/2911/2013</p>	<p>31/01/2014</p>	<p>Para 7 of Schedule 6 HB (Person who have attained the qualifying age for state pension credit) Regs 2006</p>	<p>Whether the capital value of a property abroad could be disregarded beyond 26 weeks under the regulations due to an inability to sell it. The First-tier Tribunal's responsibility to avoid making notes of its decision (or the discussion leading to it) in the record of proceedings.</p>



<p><a href="#"><u>AH v London Borough of Hackney (HB)</u></a>  <a href="#"><u>[2014] UKUT 47 (AAC)</u></a>  CH/2889/2013</p>	<p>30/01/2014</p>	<p>Rule 24(1)(b) of the Tribunal Procedure (FTT) (Social Entitlement Chamber) Rules 2008;</p> <p>Section 6(1) Human Rights Act 1998</p> <p>Regulation 86 HB Regs 2006.</p>	<p>The council's delay of over 2 years in forwarding an appeal to the First-tier Tribunal considered. Its duty under rule 24(1)(b) to send or deliver its response to the F-tT as soon as reasonably practicable confirmed. Relevant case law highlighted. The general relevance of Article 6 of the European Convention on Human Rights confirmed in HB cases. The council's responsibility to analyse all the information and evidence emphasised and the proper approach to Reg 86 confirmed.</p>
<p><a href="#"><u>JS v Kingston Upon Hull City Council (HB)</u></a>  <a href="#"><u>[2014] UKUT 43 (AAC)</u></a>  CH/741/2013</p>	<p>29/01/2014</p>	<p>Section 9 of the Tribunals, Courts and Enforcement Act 2007</p> <p>Rule 40(2) of the Tribunal Procedure (First-tier Tribunal) (Social Entitlement Chamber) Rules</p>	<p>Whether the First-tier Tribunal had jurisdiction to review one of its decisions on its own initiative.</p>
<p><a href="#"><u>SM v Amber Valley Borough Council and Secretary of State for Work and Pensions (HB)</u></a>  <a href="#"><u>[2014] UKUT 37 (AAC)</u></a>  CH/4085/2012</p>	<p>24/01/2014</p>	<p>Reg 100(2) &amp; 100(3) HB Regs 2006</p> <p>Reg 83 CTB Regs 2006</p>	<p>Whether or not a Housing Benefit overpayment, arising because of the Secretary of State for Work and Pension's delay in awarding Widowed Parent's Allowance, was irrecoverable because it involved an official error.</p>

<p><a href="#"><u>JS v Secretary of State for Work and Pensions and Cheshire West and Chester Borough Council (HB)</u></a>  <a href="#"><u>[2014] UKUT 36 (AAC)</u></a>  CH/2067/2012</p>	<p>23/01/2014</p>	<p>Reg 13D(2)(b) HB (Person who have attained the qualifying age for state pension credit) Regs 2006</p> <p>Reg 13(D)(2) HB Regs 2006</p>	<p>What is the meaning of the phrase "exclusive use" of the rooms in the regulations: is it rooms the appellant has control over and sole use of or those he has a legal right to exclude others from?</p>
<p><a href="#"><u>London Borough of Islington v JM (HB)</u></a>  <a href="#"><u>[2014] UKUT 23 (AAC)</u></a>  CH/2001/2013</p>	<p>20/01/2014</p>	<p>Para 3(6) of the Child Support, Pensions and Social Security Act 2000</p>	<p>Whether an appeal by the appellant against a decision that there had been a recoverable overpayment of benefit lapsed because of the principle established by the reported decision of a Tribunal of Commissioners in <i>R(IS) 2/08</i>.</p>
<p><a href="#"><u>Bolton Metropolitan Borough Council v BF (HB)</u></a>  <a href="#"><u>[2014] UKUT 48 (AAC)</u></a>  CH/140/2013</p>	<p>10/01/2014</p>	<p>Reg 13D HB Regs 2006</p>	<p>Whether the claimant was entitled to Local Housing Allowance for the two bedroom rate when a second bedroom was reasonably required for the claimant's daughter who regularly attended as his carer. Whether a lounge can be treated as a bedroom when used for that purpose by a carer.</p>
<p><a href="#"><u>Sunderland City Council v GH (HB)</u></a>  <a href="#"><u>[2014] UKUT 3 (AAC)</u></a>  CH/1757/2013</p>	<p>06/01/2014</p>	<p>Section 130(1) of the Social Security Contributions and Benefits Act 1992</p> <p>Reg 7 HB Regs 2006</p>	<p>Whether the claimant was entitled to receive HB for a new address after she had been unable to occupy it immediately as she had no furniture and was awaiting a decision on an application for a social fund payment. The proper approach for a council to adopt to a benefit claim from a claimant in similar circumstances.</p>