

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

### HB/CTB Decisions published on Commissioners' / Upper Tribunal website in 2008

File number	Date of decision	Council	Benefit in issue	Legislation in issue	Keywords
<a href="#">[2008] UKUT 38 (AAC)</a> CH/3/2008	12/12/08	Kirklees	HB CTB	S75 SSAA 1992 and Reg 100 HB Regs 2006 and equivalent CTB Regs  Reg 29 HB Regs 2006 and equivalent CTB Regs	Overpayment – official error – miscalculation of original award – effect on recoverability
<a href="#">[2008] UKUT 31 (AAC)</a> CH/765/2008	04/12/08	Islington	HB	Reg 98 HB Regs 2006	Whether landlord can require payment to it of arrears of HB wrongfully paid to tenant.
<a href="#">[2008] UKUT 30 (AAC)</a> CH/758/2008	04/12/08	Bradford	CTB	Reg 28 CTB Regs 2006	Income – proper treatment of regular drawings by a partner when the partnership is not making any profits
<a href="#">[2008] UKUT 26 (AAC)</a> CH/1895/2008	01/12/08	Hackney	HB CTB	Reg 7 HB Regs 2006	Dwelling may consist of separate properties rented under different tenancies

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<a href="#">[2008] UKUT 18 (AAC)</a> CH/3160/2007 To be reported as <b>R(H) 3/09</b>	19/11/08	Mendip	HB	S75(3) SSAA Reg 101 HB Regs 2006	2006 Amendments to liability for over payments are retrospective.
<a href="#">[2008] UKUT 10 (AAC)</a> CH/2353/2008	13/11/08	Islington	HB	Reg 100(2) HB Regs 2006	Recovery of overpayments – what claimant could reasonably be expected to know from information provided to her – reg 100 to be applied as a continuity test in light of the information provided.
<a href="#">[2008] UKUT 9 (AAC)</a> CH/2367/2008	12/11/08	East Hampshire	HB CTB	Rule 2(1) and (2) Tribunal Procedure (First-tier Tribunal)(Social Entitlement Chamber) Rules 2008	Capital – valuation of second property subject to equitable interests – duty of tribunal to consider issues of valuation with the parties  Tribunal procedure- difficult questions of equitable interests must be decided by the tribunal if necessary for the decision before it
<a href="#">[2008] UKUT 6 (AAC)</a> CH/1909/2008	07/11/08	Sheffield	HB CTB	S75 SSAA 1992 and Reg 100 HB Regs 2006 and equivalent CTB Regs	Whether the claimant could reasonably have been expected to know that he or she was in receipt of an overpayment. – relevance of local authority's knowledge and what a claimant disclosed .

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<a href="#">[2008] UKUT 13 (AAC)</a> CH/1764/2008	06/11/08	Hounslow	HB CTB	Regs. 13 and 14 of the HB & CTB (Decisions and Appeals) Regs 2001	Conditions for suspension and termination of benefit – requirement to provide information etc must be communicated to be effective
<a href="#">[2008] UKUT 11 (AAC)</a> CH/2340/2008	04/11/08	Sheffield	HB	Reg 9(1)(h) HB Regs 2006	Liability – sale and lease back by claimant a few days before mortgagee obtained possession order
<a href="#">[2008] UKUT 7 (AAC)</a> CH/4262/2007	04/11/2008	Bristol	HB CTB	S75 SSAA 1992 and Reg 100 HB Regs 2006 and equivalent CTB Regs  Tribunal Procedure (First-tier Tribunal) (Social Entitlement Chamber) Rules 2008. Rule 5(2)	Correct approach to reg 100(3)  New powers of the First-tier Tribunal from 03.11.08 – local authorities under duty to follow directions – construction of bundle-authorities sent to claimants.
<a href="#">CH/2233/2007</a>	22/10/08	Portsmouth	HB CTB	S75 SSAA 1992 and Reg 100 HB Regs 2006 and equivalent CTB Regs	Overpayment – capital – money allegedly held in trust for another  Need for separate decision on recoverability

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<a href="#">CH/1330/2008</a>	21/10/2008	Hillingdon	HB CTB	Reg 35 HB Regs 2006	Earnings from employment – treatment of travel expenses for itinerant worker – expenses of travel to and from home do not count as earnings
<a href="#">CH/4066/2007</a>	21/10/2008	Leicester	HB	Reg 99(3) HB Regs 1987	Recovery of overpayment – claimant's contribution to official error
<a href="#">CH/4085/2007</a>	08/10/2008	Oxford	HB CTB	S1(1)-1B SSAA	Failure to attend an interview in connection with an application for a national insurance number – whether failure justifying refusal of benefit.
<a href="#">CH/3777/2007</a>	07/10/2008	Sutton	HB	Reg 44 and Sch 6, paras 4(b) and 25 HB Regs 2006	Capital – interest in former matrimonial home – meaning of 'estrangement' – couple still estranged although on good terms
<a href="#">CH/51/2008</a> To be reported as <b>R(H) 2/09</b>	25/09/08		CTB	Reg 30(5) CTB Regs	Income – reduction in incapacity benefit because of receipt of occupational pension by virtue of s30DD of the SSCBA 1992 is not 'any deduction by way of recovery'

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<a href="#">CH/1973/2008</a>	24/09/08	Leeds	HB	Reg 9(1)(d) HB Regs 2006	Liability to assignee for whose child claimant is responsible
<a href="#">CH/2198/2008</a>	17/09/08	Westminster	HB CTB	Reg 83(12) HB Regs 2006 Reg 69(14) CTB Regs 2006	Backdating – continuous good cause – whether claimant acted reasonably – CH/342/2003 not followed
<a href="#">CH/1076/2008</a>	11/8/08	Sunderland	HB	S. 91(1) of the Pension Schemes Act 1995	Whether payment of part of an annuity to separated spouse can be disregarded from income for housing benefit purposes
<a href="#">CH/779/2007</a> CH/1246/2007 CH/2805/2007  To be reported as <b>R(H) 4/09</b>	28/07/08	Hounslow Oxford Sheffield	HB	Para 4(10) Schedule 3 to HB and CTB (Consequential Provisions) Regs 2006.	Whether accommodation is 'exempt accommodation' where support is provided to tenant by a third party
<a href="#">CH/3240/2007</a>	21/7/08	Islington	HB	Reg 100(2) HB Regs 2006	Overpayment – when reasonable to expect claimant to realise overpayment has been made

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<a href="#">CH/3691/2007</a>	15/07/08	Leicester	HB CTB	Reg 3 HB Regs 2006	Non-dependants – supersession and overpayment – issues on the appeal – burden of proof
<a href="#">CH/3590/2007</a>	09/07/08	Swansea	HB	Reg 14 HB Regs 2006	Duty to apply to rent officer – contractual rent increase shortly after rent officer determination
<a href="#">CH/361/2006</a>	09/07/08	Stockport	HB	Regs 91 and 99 HB Regs 1987	Payments made pending application to rent officer – whether housing benefit' or ' payment on account' – delay in applying to a rent officer can be official error
<a href="#">CH/2583/2007</a>	01/07/08	Wandsworth	HB	Reg 100 HB Regs 2006 S12(8)(a) Social Security Act 1998	Recovery of overpayment – lack of evidence as to date eligibility ceased
<a href="#">CH/4213/2007</a>	30/06/08	Nottingham	HB	Regs 100 and 101 HB Regs 2006	From whom overpayment recoverable

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<a href="#">CH/2321/2007</a> Leave to appeal granted by Court of Appeal on 08.12.08 under the name <b>Aykac</b> v LB Camden and Secretary of State for Work and Pensions	23/06/08	Camden	HB	Reg 10 HB Regs 2006	National of state that has ratified ECSMA department – whether "right to reside" test confined to EU Citizens.
<a href="#">CH/3584/2007</a>	13/06/08	Hackney	CTB	Reg 14 HB & CTB (D and A) Regs 2001	Whether benefit entitlement ceased where the local authority framed its information requirement by reference to a document which did not exist
<a href="#">CH/38/2008</a>	12/06/08	Liverpool	HB CTB	Regs 100 and 31(2) HB Regs 2006  Regs 83 and 21(2) CTB Regs 2006	Supersession to reflect success in IB appeal did not create an overpayment caused by official error.

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<a href="#">CH/4014/2007</a>	23/05/08	Hillingdon	HB CTB	S130(1)(c)(i) SSCBA 1992  Sch 4, para 12, Sch 5, para 4, and Sch 6, para 5 HB Regs 2006 and counterparts in CTB Regs 2006	Effect of <a href="#">R(H) 9/04</a> and <i>ex parte Hamilton</i> ; local authority's power to decide whether claimant and "partner" living together
<a href="#">CH/3935/2007</a>	07/04/08	Bexley	HB CTB	Para 6(9) of Sch 7 to the CSPSSA 2000	Relevant date of circumstances obtaining when revision is treated as supersession.
<a href="#">CH/1672/2007</a>	01/04/08	Westminster	HB	Regs 30, 33, 35, 41 & 42 HB (SPC) Regs 2006	Whether income of a pensioner for HB purposes was the whole of a retirement pension or the net sum after paying some of that pension to the pensioner's wife under a High Court order
<a href="#">CH/2567/2007</a>	27/03/08	Wandsworth	HB CTB	Regs 81, 69(1) and 2(1) HB (SPC) Regs 2006	Recovery of overpayments – notification to housing department – failure of housing department to pass on to designated office



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<a href="#">CH/3586/2007</a>	27/03/08	Camden	HB CTB	Reg 75 HB Regs 1987 and reg 65 CT) Regs 1992 as modified by The HB and CTB (State Pension Credit) Regs 2003	Recovery of overpayments – obligation to report changes of circumstances – meaning of ‘relevant authority’ in the context of official error
<a href="#">CH/4250/2006</a>	20/03/08	Vale Royal	HB	Reg 10(1)(f) and 2(4)(c) HB Regs 1987	Eligible payments – mooring charges – meaning of houseboat for HB purposes
<a href="#">CH/2675/2008</a>	13/03/08	Worthing	HB CTB	S136 SSCBA 1992	Whether a loan is income
<a href="#">CH/2491/2007</a> (24 appeals)	03/03/08	Birmingham	HB	Reg 9(1)(a) and (l) HB Regs 2006	Church-based housing charity aimed at rehabilitation – house-rules incorporated in contract whether on commercial basis

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<a href="#">CH/411/2007</a> <b>CIS/34/2006</b> <b>CIS/735/2007</b>	25/02/08	Leicester	HB CTB	Reg 7A(5)(d) HB (General) Regs 1987 and its counterpart in the CTB (General) Regulations 1992  Reg 3(5) Decisions and Appeals Regulations 1999	Whether 'in receipt of' income support following revision of award of income support
<a href="#">CH/2943/2007</a>	22/02/08	Birmingham	HB CTB	Reg 100 HB Regs 2006 Reg 83 CTB Regs 2008	Recovery of overpayment – official error – what may reasonably be expected of a claimant
<a href="#">CH/2555/2007</a>	05/02/08	Wolverhampton	CTB	Reg 72 CTB Regs 2006	Whether local authority entitled to supersede award of CTB because beneficiary refuses a home visit –reasonableness of authority's actions on particular case to be considered by tribunal – <a href="#">CH/4390/2003</a> considered – <a href="#">CH/2995/2006</a> and <a href="#">CH/3076/2006</a> applied
<a href="#">CH/3528/2006</a>	05/02/08	Sandwell	HB	Reg 12 HB Regs 2006	Whether payments called service charges are actually rent. – suitable alternative accommodation.

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<a href="#">CH/1353/2007</a>	23/01/08	Birmingham	HB	Reg 9(1)(h) HB regs 2006	Former owner – whether occupation must be continuous
<a href="#">CH/2411/2006</a>	17/01/08	Windsor and Maidenhead	HB	Reg 101 HB Regs 1987	Whether landlord could take advantage of Reg 101 (1)(B) Housing Benefit (General) Regulations 1987.
<a href="#">CH/1849/2007</a>	17/01/08	Westminster	HB	Reg 7(1)(a) HB Regs 1987	Non-commercial tenancy – no rent paid for 8 years
<a href="#">CH/2298/2007</a>	08/01/08	Bradford	HB	Reg 101 HB Regs 1987	Recovery of overpayment – concurrent liability of landlord and claimant.

### HB/CTB decisions reported in 2008

Reported as	File number	Council	Benefit	Legislation in issue	Keywords
<a href="#"><u>R(H) 1/08</u></a>	CH/1821/2006	Manchester	HB CTB	Reg 95 HB/CTB Regs 2006	Payment to landlord – scope of appeal by landlord  Payment to landlord – whether local authority has power to suspend payment pending decision whether to pay to landlord
<a href="#"><u>R(H) 2/08</u></a>	CH/3629/2006	Wirral	HB	Regs 94 – 96 HB/CTB Regs 2006	Payment to landlord – benefit paid to tenant where duty to pay to landlord – whether possible to pay to landlord for same period – effect of offsetting provisions
<a href="#"><u>R(H) 3/08</u></a>	CH/3933/2006	Hackney	CTB	S 131 SSCBA 1992	Dwelling – sole or main residence
<a href="#"><u>R(H) 4/08</u></a>	CH/402/2007	Cardiff	CTB	Reg 14 HB & CTB (D and A) Regs 2001	Tribunal jurisdiction – council tax benefit – termination following suspension of award – whether decision appealable

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<a href="#"><u>R(H) 5/08</u></a>	CH/1099/2007	Bassetlaw	CTB	S136 SSCBA Reg 22 CTB Regs 1987	Calculation of income – self-employed earner – whether losses in claimant’s business can be offset against partner’s employed earnings
<a href="#"><u>R(H) 6/08</u></a>	CH/1246/2007	Oxford	HB	‘Old’ reg 11 HB Regs 1987	Rent restrictions – exemption where housing-related support provided by person ‘acting on behalf of landlord’ – support provided to the tenant by a third party who acts on behalf of the landlord in some respect other than providing support
<a href="#"><u>R(H) 7/08</u></a>	CH/3700/2006	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
<a href="#"><u>R(H) 8/08</u></a>	CH/2675/2007	Worthing	HB CTB	S136 SSCBA 1992	Whether a loan is income

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<a href="#">R(H) 9/08</a>	CH/4250/2006	Vale Royal	HB	Reg 10(1)(f) and 2(4)(c) HB Regs 1987	Eligible payments – mooring charges – meaning of "houseboat"
<a href="#">R(H) 10/08</a>	CH/3586/2007	Camden	HB CTB	Reg 75 HB Regs 1987 and reg 65 CT) Regs 1992 as modified by The HB and CTB (State Pension Credit) Regs 2003	Housing and council tax benefit – recovery of overpayments – official error – local authority tenant – information notified to housing office and not passed on to benefits service

**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](#).