

# Housing Benefit

## General Information Bulletin

Department for Work and Pensions, 6<sup>th</sup> Floor, Caxton House, Tothill Street,  
London SW1 9NA  
<https://www.gov.uk/government/organisations/department-for-work-pensions>

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**HB G8/2014**

**13 August 2014**

<b>Contact</b>	Queries about the <ul style="list-style-type: none"><li>• <b>technical content of this bulletin</b>, contact details are given at the end of each article</li><li>• distribution of this bulletin, contact <a href="mailto:housing.correspondenceandpqs@dwp.gsi.gov.uk">housing.correspondenceandpqs@dwp.gsi.gov.uk</a></li></ul>
<b>Who should read</b>	All Housing Benefit staff
<b>Action</b>	For information

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## Attribution of earnings in Housing Benefit (HB)

1. On the 9 May 2014 the Upper Tribunal issued decision number CH/48/2014. In summary, the decision states that, contrary to current practice, local authorities (LA) should attribute earnings over the period following their receipt, rather than over the period for which they are earned when calculating entitlement to HB.
2. For example, were a month's wages to be received on 28 February, under current practice, the LA would attribute the month's earnings over February, and take them into account against HB entitlement in February. The Upper Tribunal judge however, is of the opinion that in such a scenario, the wages should be taken into account in March i.e. following their receipt.
3. Ministers have decided that the best approach would be to clarify the situation by an amendment to regulations to state that earnings should be attributed over the period they are earned. We aim to do this as soon as possible in the autumn.
4. We appreciate that this leaves a gap between the date of the Upper Tribunal decision and the regulations coming into force.

### Action to Take

5. The Upper Tribunal decision is binding on all attribution decisions made on or after 9 May 2014. As with all Upper Tribunal decisions LAs need to decide how to deal with these cases in liaison with their legal advisers.
6. Address for queries: [housing.benefitenquiries@dwp.gsi.gov.uk](mailto:housing.benefitenquiries@dwp.gsi.gov.uk)

## Sanction Changes

### Issue

7. When the changes were made to the Electronic Transfer of Data notifications for the introduction of Employment and Support Allowance (ESA), an additional change was made. The system was changed to send notifications on income-based Jobseeker's Allowance (JSA) and income-related ESA claimants if a sanction is imposed. Although the majority of these notifications have no impact on the HB entitlement, claims are being suspended while further enquiries are made. This in turn is creating additional work for the LA as they have to check every notification to see whether the claimant is no longer entitled to benefit or benefit has ceased due to a sanction.

## The Oakley Review

8. Matthew Oakley has published an independent review of JSA benefit sanctions. The review looks at benefit sanctions for JSA claimants who have been sanctioned after being referred to a mandatory back to work scheme.
9. He makes a number of sensible recommendations to help improve the sanction process. These focus on, communications, clarity around who the claimant should be talking to and when, and making sure the safeguards in place meet the needs of the most vulnerable.

## Interim solution

10. These recommendations have resulted in an interim measure being introduced. Jobcentre Plus agents will signpost claimants to the LA if they are in receipt of HB when a sanction is imposed so that they can explain the situation and avoid their claims being cancelled in error. This should limit the number of claims being suspended or closed incorrectly. This has the potential to increase the footfall into the LA but should reduce the unnecessary work caused by suspending the HB claim.

## Long term IT solution

11. We are developing an IT change to inhibit the sanction notifications being created at source. This will mean that the LA will only receive information about claim closure, disallowance and sanctions that result in a disallowance.
12. We are also removing the sanction notifications for ESA claimants as none of the sanctions will result in the benefit being disallowed. The personal allowance would be removed but the claimant would still receive the other component parts of their award.
13. The LA will still receive notifications where the claims are disallowed and also disallowed due to a sanction being imposed on the claimants.
14. This change is planned to be delivered autumn 2014 and we will write to you again when the date for this is confirmed.
15. The interim solution should be running now as it was rolled out in July 2014 and therefore you could be receiving additional queries and information when claimants are being sanctioned.
16. This interim process will be removed once the IT solution can be delivered to stop the unnecessary notifications being created and sent to the LA.

## Queries

17. If you have any queries please contact – [LA-SST.HDD@dwp.gsi.gov.uk](mailto:LA-SST.HDD@dwp.gsi.gov.uk)

## HB/CTB decisions by the Upper Tribunal

18. Decision Making and Appeals (DMA) Leeds is aware of the following HB/CTB cases that have been decided by the Upper Tribunal:

- CH/53/14: Overnight care. Parties agreed that case should be remitted. No specific reasons given
- CH/2566/13: Claimant did not have “facilities for cooking” in regulation 13(2)(b) where he had to use a hand basin in the bathroom for washing food and washing up
- CSH/771/1013: Claimant appeal. Dismissed. HB/CTB overpayment – failure to disclose partner’s earnings increases. First tier Tribunal (FtT) flawed reasoning for not adjourning not erroneous – the recoverable overpayment decision would have been the same notwithstanding the error
- CH/18/2014: LA appeal. Dismissed. CTB overpayment £9.62 (see paragraphs 1-2 of the decision)
- CH/37/2014: Claimant appeal. Remitted. HB/CTB overpayment – Living together as a married couple (LTAMC). Inadequate explanation of findings of fact concerning the linking term (LT) determination in the linked case - CIS/38/2014
- CH/337/2014: Claimant appeal. Substitution – remitted to the LA decision maker to start again if appropriate (£38 thousand overpayment). Error of law as in RH 6/06 (59 – 61). Claimant notified of recoverable overpayment decision but landlord / agent not at that stage parties and not notified
- CH/738/2014: Claimant appeal. Dismissed. Claimant was a “substantial minority” carer for child. Exclusion of child under HBR 20 justified and not contrary to ECHR Art 1 of Protocol 1 when read with Art 14
- CH/2530/2013: Claimant appeal. Allowed. Failure to follow suspension and termination rules and time limits; includes a useful review of these

### Queries

Decisions of the Upper Tribunal are published on their website which can be found here:

<http://www.administrativeappeals.tribunals.gov.uk/Decisions/decisions.htm>

If you have any queries about cases before the Upper Tribunal Judges or courts, please contact us by

Email – at: [FLDMDMA.CUSTOMERSUPPORTSERVICES@DWP.GSI.GOV.UK](mailto:FLDMDMA.CUSTOMERSUPPORTSERVICES@DWP.GSI.GOV.UK)  
or Fax – on: 0113 2324841

## Statutory Instruments

19. The following Statutory Instruments (SIs) have been laid:

- 2014 No.1913, The Jobseeker's Allowance (Supervised Jobsearch Pilot Scheme) Regulations 2014, coming into force from 18 July 2014
- 2014 No. 1923, The Welfare Reform Act 2012 (Commencement No. 9, 11, 13, 14, 16 and 17 and Transitional and Transitory Provisions (Amendment) (No. 2)) Order 2014, coming into force from 21 July 2014
- 2014 No.1926, The Pensions Act 2004 (Code of Practice) (Funding Defined Benefits) Appointed Day Order 2014, coming into force 29 July 2014
- 2014 No.1954, The Pensions Act 2011(Consequential and Supplementary Provisions) Regulations 2014, coming into force 24 July 2014

Copies of SIs can now be downloaded from DWP's own website

<http://www.dwp.gov.uk/publications/specialist-guides/law-volumes/the-law-relating-to-social-security/> and the website of the Office of Publication Sector Information <http://www.opsi.gov.uk/stat.htm>

## What's new on the web

20. The following items can be found on the website link shown

Document Type	Subject	Link
HB G7/2014	Discretionary Housing Payment Good Practice Guide  Personal Independence Payment assessment – independent review  Service Level Agreement between Debt Management and LAs  Housing Benefit Circular A12/2014  Eleven new trial sites announced  Universal Credit live	<a href="https://www.gov.uk/government/publications/hb-bulletin-g72014">https://www.gov.uk/government/publications/hb-bulletin-g72014</a>

	<p>service rollout</p> <p>New products on the Universal Credit Partner Toolkit</p> <p>Real Time Information Bulk Data Matching Initiative</p> <p>Access to data via the Customer Information System</p> <p>Statutory Instruments</p> <p>Update on cases with Decision Making and Appeals</p> <p>What's new on the web</p>	
<p><b>HB Direct issue 151 August 2014</b></p>	<p>Newsletter</p>	<p><a href="https://www.gov.uk/government/publications/hb-direct-august-2014-issue-151">https://www.gov.uk/government/publications/hb-direct-august-2014-issue-151</a></p>