

# Housing Benefit and Council Tax Benefit Circular

Department for Work and Pensions

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## HB/CTB A25/2009

### ADJUDICATION AND OPERATIONS CIRCULAR

<b>WHO SHOULD READ</b>	All Housing Benefit (HB) and Council Tax Benefit (CTB) staff
<b>ACTION</b>	For information and immediate action
<b>SUBJECT</b>	Valuation of capital assets: reminder of current service agreement and revised guidance on jointly owned property

### Guidance Manual

The information in this circular does affect the content of the HB/CTB Guidance Manual. Please annotate this circular number against

- *BW1 Paras W1.380 – W1.484, Annex D and Annex E*
- *BP1 paras P1.380 – P1.484, Annex D and Annex E*

### Queries

If you

- want **extra copies of this circular/copies of previous circulars**, they can be found on the website at <http://www.dwp.gov.uk/local-authority-staff/housing-benefit/user-communications/hbctb-circulars>
- have any queries about the
  - **technical content of this circular**, contact Richard Metcalfe  
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Contents

para

**Valuation of capital assets**

Current service agreement .....	1
Completion of forms LA1 and LA2 .....	3
Valuation dates .....	7
Authorisation .....	8
Further points to note .....	9
Overseas valuations .....	10
Fraud cases .....	13
Valuation disputed .....	14
Jointly owned property .....	15
Queries .....	21
Form LA1 .....	Appendix 1
Form LA2 .....	Appendix 2

## Valuation of capital assets

### Current service agreement

- 1 The current commercial agreement between the Department for Work and Pensions (DWP) and the Valuation Office Agency (VOA), which undertakes valuations of property and other capital assets, commenced on 1 September 2008 and runs for a period of four years with the option to break or review prices after two years. The agreement is monitored by the Jobcentre Plus Capital Valuations team.
- 2 The current arrangements were described in HB/CTB Circular A15/2008. The VOA has advised us that there is continuing concern that form LA1 and LA2 are not being completed in accordance with the agreement. This circular is a reminder of those arrangements following feedback from the VOA.

### Completion of forms LA1 and LA2

- 3 The VOA will only accept the current versions of forms LA1 and LA2. These are in the HB/CTB Guidance Manual at Part BW1 and Part BP1, Annexes D and E, and can be found online at  
<http://www.dwp.gov.uk/docs/hbgm-bw1-assessment-of-capital.pdf>  
<http://www.dwp.gov.uk/docs/hbgm-bp1-assessment-of-capital.pdf>
- 4 We are aware of difficulties with forms LA1 and LA2 because they cannot be downloaded from the DWP website. As a result, many local authorities are redesigning or adapting the form before submitting it to VOA.
- 5 Revised forms LA1 and LA2
  - are shown at Appendix 1 and 2 (Note: The appendix pages have no header or footer so that you can see the correct layout of the forms)
  - are in Microsoft Word (\*.doc) format. You can use these versions to pre-populate relevant areas but will not be able to change the general layout or other areas of the text
  - will be added to the guidance manual to replace the earlier versions
- 6 Local authorities should also ensure that in all instances when sending the forms to the VOA that both forms are sent together.

### Valuation dates

- 7 A maximum of three valuation dates can be requested on form LA2. Additional forms must be submitted if more than three dates are required.

### Authorisation

- 8 The VOA is also receiving forms LA1 and LA2 without the local authority's case reference number and a signature. Please ensure all forms contain a case reference number and are signed by the appropriate officer.

### Further points to note

- 9 In addition to the information listed at W1.481, local authorities should include the following information where appropriate
- If the valuation is in respect of land, include a plan with the submission showing the boundaries and the name of the nearest main road
  - All references to deemed market shares should be accompanied by a reference to actual market shares
  - The percentage beneficial share should be explicitly stated

### Overseas valuations

- 10 The current contract with VOA does not extend to the valuation of overseas property and there are no plans to change this. Therefore, do not complete forms LA1 or LA2 in respect of overseas valuations. The value of overseas assets depends on whether there are currency restrictions in place in the country concerned. If there are no currency restrictions, the value of the asset is what a willing buyer would pay a willing seller in the country concerned. Most claimants can provide a letter from a bank in the country where their assets are held or a letter from the embassy of the country concerned.
- 11 The onus is on the claimant to provide this information, although there may be occasions when they cannot due to language barriers or the circumstances under which they left their country. Local authorities should obtain as much information as possible about the property; for example, when purchased, whether there is any outstanding mortgage or anyone living in the property and details of any estate agent who deals with properties abroad.
- 12 If the claimant cannot get any evidence to indicate the value, the decision maker has to decide whether to accept the claimant's statement of the value. It is not the intention for the claimant to incur costs in this process.

### Fraud cases

- 13 Staff are reminded that the guidance in the HB/CTB Guidance Manual does not deal with valuations in fraud cases. Guidance for the referral in both fraud and non-fraud cases is contained in *HB/CTB Circular F3/2004*.

### Valuation disputed

- 14 Some local authorities are advising customers who are dissatisfied with the outcome of their valuation to contact the VOA direct. The VOA will not deal with these enquiries as they are not resourced to do so.

- 15 The VOA can and does provide follow-up reports if requested by a local authority. If a claimant disputes a valuation and the matter is referred to an appeal tribunal or a court hearing, a follow-up report should always be obtained. Disputed valuations should not progress as far as an appeal tribunal or a court hearing based on the valuation advice contained in form LA2 alone.

### Jointly owned property

- 16 The lead case, heard in the Court of Appeal, on the treatment of jointly owned property and identifying the extent of the share to be taken into account is *'Hourigan v Secretary of State for Work and Pensions'* EWCA Civ 1890CA/19/12/2002. This makes a distinction between a 'joint tenancy' and 'tenancy in common'.
- 17 Guidance currently states that if the claimant beneficially owns property with one or more people, the claimant and other beneficial joint owners should be treated as if they had equal shares in the property. **This guidance is incorrect** and will be amended.
- 18 It is important to establish whether the joint ownership arrangement is a 'joint tenancy' or a 'tenancy in common' when identifying the actual share to be valued. Questions 15 and 16 on form LA1 seek to elicit this information from the claimant.
- 19 If the joint owners hold the property as 'joint tenants', treat the claimant and other joint owners as though they have equal shares in the property. If the ownership is shared on the basis of 'tenants in common', the value of the share is the actual share that each owns. This distinction is covered in DWP's Valuation of Capital Assets Handbook but has not yet been reflected in the HB/CTB Guidance Manual. Please note that the example given in W1.380 is incorrect if the joint ownership is a 'tenancy in common' arrangement. If three people own a house as tenants in common in the proportions X=50%, Y=25%, Z=25%, treat each as possessing the actual share which they own.
- 20 The wording of forms LA1 and LA2 fully reflects the above decision and local authority staff should not amend it.

### Queries

- 21 Any enquiries about these valuation processes or the Valuation of Capital Assets Handbook should be directed to

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Room 3S25  
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- 22      Advice on treatment of capital assets in the assessment of Housing Benefit and Council Tax Benefit should be directed to  
Amanda Elias  
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Toothill Street  
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