



**FIRST - TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)**

Case reference : **MAN/30UH/HIN/2021/0005**

**HMCTS code
(audio,video,paper)** : **V:FVHREMOTE**

Property : **20 Mayfield Avenue, Lancaster, LA1 2NY**

Applicant : **Joanna Claire Hartley**

Respondent : **Lancaster City Council**

Type of Application : **Housing Act 2004 – Schedule 1**

Tribunal Members : **Judge J.M.Going
J. Faulkner FRICS**

Date of Hearing : **22 July 2021 with the Tribunal Members
reconvening on 10 August 2021**

Date of Decision : **13 August 2021**

DECISION

Covid -19 pandemic: description of hearing:

This has been a remote Full Video Hearing which has been consented to by the parties. The form of remote hearing was V.FVHREMOTE. A face-to-face hearing was not held because it was not practicable and all issues could be determined in a remote hearing. The documents that the Tribunal was referred to were in a series of electronic document bundles, statements, and submissions as described below, the contents of which were noted.

The Decision and Order

The Tribunal orders :-

- 1. the variation of the Improvement Notice in accordance with the Schedule to this Decision, and that the remedial action be started within 30 days, and completed within 6 weeks, of the date of service of this Decision on the parties,**
- 2. that Ms Hartley pay the Council £400 in respect of its reasonable costs relating to the Improvement Notice, and**
- 3. that there be no further order as to costs.**

Preliminary

1. By an Application dated 2 October 2020 the Applicant (“Ms Hartley”) appealed to the First-Tier Tribunal Property Chamber (Residential Property) (“the Tribunal”) under paragraph 13(1) of Schedule 1 of the Housing Act 2004 (“the Act”) against the Respondent (“the Council”)’s issue of an Improvement Notice dated 15 September 2020 (“the Improvement Notice”) relating to the property.
2. The Tribunal gave Directions.
3. Both parties provided a bundle of relevant documents including written submissions which were copied to the other.
4. A Full Video Hearing was held on 22 July 2021. Ms Hartley represented herself. Mr Charlesworth, a Technical Officer in its Housing Standards Office represented the Council.
5. After issuing Directions at the Hearing, later confirmed in writing, and following receipt of further information, the Tribunal Members reconvened on 10 August 2021 to complete its determination.

The Property

6. The property is a two-storey semi-detached, ex-local authority, house constructed with rendered cavity walls and a concrete tiled roof. There is a lounge, kitchen, bathroom and toilet on the ground floor with 3 bedrooms on the first floor.

The Facts and Chronology

7. The following facts and timeline of events is confirmed from an analysis of the papers and the oral testimony. None have been disputed, except where specifically referred to.

3 March 2020	The Council received a complaint about the property.
	An improvement notice was served relating exclusively to a defective front door. The door was subsequently replaced and the improvement notice in question thereafter revoked by the Council.
29 May 2020	A new gas boiler was installed, after the gas had been turned off following a leak having been identified.
	Discussions were ongoing between the parties as to improvements sought by the Council
5 August 2020	The Council inspected the property, stating that “at the time of inspection, the property was occupied by a disabled adult and his son aged approximately 10. The tenant has restricted mobility, is reliant on daily visits by carers, and can only move around the property on crutches and is, therefore, particularly vulnerable to trips and falls”.
6 August 2020	The Council sent an email to Ms Hartley advising her of works it considered were necessary and seeking proposals for their completion.
6 August 2020 – 3 September 2020	There were further discussions and emails between the Council and Ms Hartley.
4 September 2020	The Council made a further inspection of the property and identified both Category 1 and Category 2 hazards.
15 September 2020	The Council served Miss Hartley both with the Improvement Notice and a separate Notice demanding £400 in respect of its costs relating to the service of the Improvement Notice.
2 October 2020	Ms Hartley submitted her appeal to the Tribunal.

The Contents of the Improvement Notice

8. The Improvement Notice referred to:-

	The nature of the hazards and the deficiencies giving rise to the hazards
Category 1 Hazards Excess cold	<ul style="list-style-type: none">• Lack of proper maintenance and disrepair to windows and external doors throughout the building resulting in excessive draughts.• Poorly maintained single glazed windows to the hallway, toilet and two bedrooms.• Excessive draughts throughout the property make it difficult to achieve and maintain a healthy indoor temperature.• Poorly maintained single glazed windows are less energy-efficient than current standards and contribute further to the difficulty in achieving and maintaining a healthy indoor temperature.
Falling on stairs etc	<ul style="list-style-type: none">• Disrepair to the steps and risers greatly increase the likelihood of falls and subsequent injuries.
Category 2 Hazard Food safety	<ul style="list-style-type: none">• Hob has been improperly installed rendering it unable to be used.• Gap between the kitchen worktops and the adjacent wall surfaces making it difficult to maintain proper hygiene in the kitchen and encouraging vermin.• Excessive draughts in the kitchen discouraging proper use and maintenance of hygiene.• Difficulty in maintaining proper hygiene increases the likelihood of foodborne illnesses.• Difficulties in (<i>in being able to</i>) properly prepare food in an unreasonably cold room discourages proper hygiene and further increases the likelihood of foodborne illness.
Action to be taken	<ol style="list-style-type: none">1. The window and associated ironmongery in the ground floor hallway must be repaired so that casement stay is securely fixed and in full and proper working order.2. The patio doors in the lounge are insecure draughty and incapable of being repaired. Replace with new secure doors in accordance with Fensa regulations.3. Overhaul or replace the external door in kitchen and carry out works as necessary to leave free of draughts. Works to include fitting a suitable threshold strip.4. Overhaul or replace the UPVC windows scheduled below this should include where appropriate replacing broken glazing,

replacement hinges, handles, beading, glazing, frames, seals and clearing the drain holes renewing and clearing trickle vents and sealing around the edges of the windows. The windows must fully open and close around the perimeter to the frame to ensure that the window is weathertight and reasonably free of draughts whilst providing adequate background ventilation.

- Front window in the lounge
 - Front window in the main bedroom
5. Consideration should be given to replacing all single glazed windows throughout the property with double glazed windows to current standards and installed in accordance with Fensa regulations.
 6. Seal the gap between the kitchen worktops and adjacent wall surfaces with a suitable flexible sealant.
 7. The staircase is in poor condition with broken, sloping and unstable treads and risers. The entire staircase must be thoroughly overhauled to leave stable, level and in a safe condition.
 8. Inspect and test all the electrical installations and appliances supplied by the landlord throughout the premises and carry out all works found necessary to leave it in a full, proper and safe working condition. All works must be carried out by a suitably qualified electrician and in accordance with current requirements of BS7671. Final test certificate must be forwarded to this office as proof of completion.

Your attention is drawn to the following areas in particular which need attention. This list is not intended to be exhaustive:

- Improperly installed hob in the kitchen rendering it unable to be used. Must be properly fitted in strict accordance with the manufacturer's instructions wired into appropriate circuit and dedicated isolation rather than plugged into an extension lead. Appliance to be left in full and proper working order.

Note: Alternative works proposed to those set out above will be considered must only be carried out after receipt of approval from Private Sector Housing.

9. The Improvement Notice stated that the specified works should begin no later than 14 October 2020 and be completed within 7 days of that date.
10. The Improvement Notice also set out in detail Ms Hartley's rights of appeal, as did a separate Notice under section 49 of the Act, served on the same date, demanding payment of £400 to cover expenses that the Council had incurred in (a) determining whether to serve a notice; (b) identifying the works to be specified in the notice; and (c) serving the notice.

The Statutory Framework and Guidance

11. The Act introduced a new system, the Housing Health and Safety Rating System (HHSRS), for assessing the condition of residential premises, which can be used in the enforcement of housing standards. The system entails identifying specified hazards and calculating their seriousness as a numerical score by a prescribed method.
12. Those hazards which score 1000 or above are classed as Category 1 hazards. If a local housing authority makes a Category 1 hazard assessment, it becomes mandatory under Section 5(1) of the Act for it to take appropriate enforcement action. Hazards with a score below 1000 are Category 2 hazards, in respect of which the authority has a discretion whether to take enforcement action.
13. The duty of a local authority to inspect a property is set out in Section 4 of the Act. Inspections are governed by the Housing Health and Safety Rating System (England) Regulations (2005/3208) which by reg.5 provide that an inspector must:-
 - (a) have regard to any guidance for the time being given under Section 9 of the Act in relation to the inspection of residential premises;
 - (b) inspect any residential premises with a view to preparing an accurate record of their state and condition; and
 - (c) prepare and keep such a record in written or electronic form.
14. The relevant Guidance is the Housing Health and Safety Rating System – Operating Guidance (“the Operating Guidance”) and the Housing Health and Safety Rating System - Enforcement Guidance (“the Enforcement Guidance”) issued by the Secretary of State under Section 9 of the Act in February 2006. Authorities must also take it into account in assessing hazards: see Section 9(2).
15. Section 5(2) of the Act sets out seven types of enforcement action which are “appropriate” for a Category 1 hazard. These include serving an Improvement Notice.
16. An Improvement Notice is a notice requiring the person on whom it is served to take such remedial action in respect of the hazard concerned as is specified in the notice: Section 11(2). If the authority serves an Improvement Notice in respect of a Category 1 hazard, the remedial action must be such as to ensure that the hazard ceases to be a Category 1 hazard but may extend beyond that: Section 11(5). An Improvement Notice may provide for its operation to be suspended until a time, or the occurrence of an event specified in the notice: Section 14(1) of the Act. By Section 14(2): “The time specified may in particular be the time when a person of a particular description begins, or ceases, to occupy any premises”.
17. A “relevant person” may appeal to the Tribunal against a decision by an authority to refuse to revoke or vary an Improvement Notice (Schedule 1, paragraph 13 of the Act).

18. The appeal is by way of re-hearing and accordingly the Tribunal must consider the state of the property as at the time of the hearing.
19. The Tribunal may confirm, quash or vary an Improvement Notice (paragraph 15(3)).

Submissions and the hearing

20. Ms Hartley made various points in her written submissions prior to the hearing
 - she said that no evidence of excessive heating bills had been provided and nor had her tenant, Mr Jenkins, complained to her or supplied proof that the property suffered from excess cold,
 - she highlighted that, whilst a new condensing boiler had been demanded and installed following a gas leak, her engineer later advised that the problems had actually been caused by the filthy state of the hob and because of Mr Jenkins not cleaning it,
 - she explained that Mr Jenkins had asked for the stairs carpet to be removed, which she had only agreed to on the understanding that he would be replacing the same, but he had not. She provided a plan of the staircase and disputed that it was not fit for purpose because of its design or age and that this conclusion had been endorsed by her builder. She explained that Mr Jenkins had removed the carpet but left the grippers in place. She had removed these personally after the service of the Improvement Notice,
 - she felt that any evaluation of the risks of the staircase should be seen in the context of the bathroom being downstairs and Mr Jenkins sleeping downstairs,
 - she said that the new electric hob was installed to a fused socket and came supplied from the manufacturer with a 3- pin plug. The extension lead was that subsequently used by Mr Jenkins. An electrician's certificate had been issued on the day of the Improvement Notice,
 - the patio doors had been sealed shut prior to the beginning of the tenancy and it had been agreed with Mr Jenkins at the outset that they should remain so. The property still had the benefit of both a front and back door,
 - hygiene matters were given a very low priority by Mr Jenkins,
 - the kitchen door had been damaged by pets, and efforts to install a new threshold hampered by the area not being cleaned by Mr Jenkins and her builder being obstructed and not feeling able to work in the environment,
 - she disputed that the windows needed replacing except for that in the large bedroom. She confirmed that all windows worked correctly apart from that in the hall, (and where later at the hearing she confirmed appropriate repairs have been made to the ironmongery and fittings).

- she felt that the complaints had been prompted by Mr Jenkins wanting to move to a Council house in a different area.

Ms Hartley provided certain photographs and video clips of different parts of the property. Her conclusion was that the Council's case had been overstated.

21. The Council's written submissions included a series of date stamped photographs together with copies of various emails passing between the parties. The majority of the photographs were dated 11 March 2021, and the others dated 5 August 2020 or 4 September 2020.
22. The Council, in response to Ms Hartley's grounds for appealing the Improvement Notice, made (inter alia) the following points
 - the front window to the lounge cannot be fully closed, there is a gap between the patio doors and the frame in the lounge, the front window in the main bedroom cannot be closed, there is no threshold, and thus a gap below the back door in the kitchen, all of which lead to excessive draughts,
 - lack of maintenance and poor condition of the remaining single glazed windows in the bedrooms, toilet and hallway,
 - the staircase is uneven increasing the likelihood of trips and falls, it is poorly maintained and some of the steps move slightly in use further increasing the likelihood of trips and falls, there is a handrail to one side of the staircase, but (as noted after the Issue of the Improvement Notice) it is not properly fixed to the wall making it unstable,
 - the tenant is disabled and reliant on crutches within the house increasing the likelihood of trips for and making him more vulnerable to injury from any fall,
 - the tenant states that only one ring on the hob can be used at a time without tripping the circuit breaker,
 - the appliance is a Diplomat branded hob, manufactured exclusively for MFI, which ceased trading in 2008,
 - the installation instructions referred to the need for a 30-amp supply meaning the appliance is not therefore suitable for being powered by a 13- amp plug,
 - "the appellant states that "an electrical safety certificate was issued on the day the Improvement Notice was issued, covering any point raised in this regard". However, despite repeated requests a copy of any certificate has not been provided or included within the appellant's bundle."
23. The Council also provided a breakdown of its costs incurred in serving the Improvement Notice, quoting the time taken by the officers involved and their hourly charge out rates, which came to £558.58, but with it stated that the figure would be limited to £400 in accordance with the Council's policy.

24. The beginning of the hearing was delayed by connectivity issues and, in the event, Ms Hartley was able to join by telephone, albeit without a video link.
25. Ms Hartley confirmed that she was the owner of a portfolio of 10 let properties, 4 of which were in Lancaster. She initially said that she had owned the property for approximately 8 years but that statement was corrected by Mr Charlesworth who said that Land Registry entries (which were later exhibited to the Tribunal) showed that Ms Hartley had purchased the property in 2001 ie 20 years ago.
26. Ms Hartley confirmed that the present monthly rental, the majority of which was paid by universal credit, amounted to £560. Ms Hartley explained that Mr Jenkins tenancy had begun in 2019 following the tragic early death of his former partner, the previous tenant. Because of various health issues and lifestyle choices, Mr Jenkins had stated at the outset that he would not be using the stairs but using part of the large lounge as his bedroom.
27. Many of the items referred to in the parties' written submissions were discussed. Ms Hartley emphasised that following the earlier inspections by the Council a new front door and gas boiler had been installed.
28. It transpired that after complaints particularly as to security and initial conversations with one of Mr Charlesworth's colleagues, a separate improvement notice had been issued relating exclusively to the front door. Ms Hartley disputed that its replacement had been necessary, but had nevertheless fitted a new UPVC door, whereafter that particular improvement notice was revoked by the Council.
29. Mr Jenkins subsequently complained about a cough and was concerned about carbon monoxide poisoning, whereupon Ms Hartley had advised him to contact Cadent. Having found a gas leak, the gas was cut off. Ms Hartley then arranged for a new boiler to be installed. Nevertheless, this did not cure the leak and the gas was again cut off. Her engineer later told her that the problem had been with the hob which had not been cleaned properly by Mr Jenkins. It was at that point she decided to replace what had been a gas hob with an electric hob.
30. Mr Charlesworth had not been able to access any files relating to the gas leaks but had been told of various matters anecdotally. He confirmed that there had not been a current gas safety certificate. When the gas was turned off by Cadent on two separate occasions it was clear there had been an urgent need to rectify the position.
31. Ms Hartley confirmed that the new electric hob had been purchased from a discount electrical store, and that she could produce the receipt if needs be. It was fitted by her electrician.
32. She said that, following Mr Charlesworth's last inspection and photographs, the ironmongery for the hall window had been renewed and replaced, a new handle installed in the living room window which does now shut properly, and that the patio doors had been sealed shut with screws. She accepted that the

upstairs bedroom window did and does need replacing, and that the banister should be fixed, but did not agree the stairs were unstable and stated that this view had been endorsed by her builder. She was adamant that the electric hob had been purchased as new and had been delivered attached to a 13-amp plug. She acknowledged that there was still no threshold to the back door, but that this was explained because Mr Jenkins had not cleaned the area in question. She felt that the complaints about the property had been motivated by his desire to move to a better estate, and confirmed that, at his instigation, she had recently served a notice to terminate his tenancy. She said that she would be selling the property when it became vacant.

33. Mr Charlesworth was not sure whether the initial complaints about the property had been instigated by Mr Jenkins, his carers or social services. He acknowledged that estate within which the property was located had a poor reputation.
34. He confirmed that when undertaking his HHSRS inspection the Category 1 hazards of excess cold had been scored at 5848, and falls on stairs at 2162.
35. He confirmed that the date stamps on the photographs were accurate.
36. He confirmed that his only issue with the patio doors in the living room was where they were poorly fixed in the frame producing excess draughts. He did not object to them being permanently sealed. He disputed Ms Hartley's assertion that the staircase was stable, noting that he was considerably lighter than Mr Jenkins and that various treads had been overly springy and were unstable when he had stood on them.
37. Mr Charlesworth also said that he was still waiting on the electrical certificate which Ms Hartley had referred to, and which Ms Hartley said could and would be sent to the Tribunal.
38. Mr Charlesworth also noted that an annual gas safety inspection should have been undertaken by 29 May 2021 (the anniversary of the installation of the new boiler) but the Council had no record of that. Ms Hartley appeared unsure as to whether it had been undertaken, emphasising the problems caused by the pandemic.
39. At the conclusion of the Hearing, the Tribunal confirmed further directions for Ms Hartley to send both to the Tribunal and the Council the electrical inspection and safety certificate, a photograph to show the repairs and improvements effected to the hall window after the Council's photographs, and the current annual gas safety inspection certificate if there was one. The Council was tasked with thereafter confirming whether it disputed the same.
40. The Tribunal subsequently received copies of the electrical certificate dated 15 September 2020, photographs showing the repairs to the hall window, and satisfactory annual gas safety certificate completed on and dated 28 July 2021, i.e. after the hearing.
41. The Tribunal reconvened on 10 August 2021 to make its determination.

The Tribunal's Reasons and Conclusions

42. The Tribunal has determined the position on the basis of all of the evidence before it.
43. The Tribunal considered whether there was a need to further inspect the property. The Covid-19 epidemic (compounded by health concerns for a vulnerable occupier) made such an inspection impracticable. Nevertheless, the Tribunal was greatly assisted by the clear and detailed photographs and video clips provided by the parties, and after having careful regard to their submissions and the testimony given at the Hearing, concluded that it had sufficient evidence to be able to make the necessary findings of fact.
44. The Tribunal found that the Council had acted entirely reasonably and appropriately in issuing the Improvement Notice on 15 September 2020, and that the remedial works then specified in the Improvement Notice were reasonable.
45. Section 4(2) of the Act states that “if an official complaint about the condition of any residential premises... is made to the proper officer of the authority, and the circumstances complained of indicate – (a) that a Category 1 or Category 2 hazard may exist on the premises,... the proper officer must inspect the premises...”
46. Section 5(1) also makes it clear that “if a local Housing authority consider that a Category 1 hazard exists on any residential premises, they must take the appropriate enforcement action in relation to the hazard.”
47. It noted that the issue of the Notice followed a period during which the Council was endeavouring (in the Tribunal’s opinion quite correctly) to give Ms Hartley the opportunity to address the self-evident deficiencies and hazards at property without the necessity of having to resort to a formal process.
48. Nevertheless, having found Category 1 hazards at the property and that they were not being properly addressed the Council had a statutory duty to act.
49. No issue was taken with the effective service of the Improvement Notice, and the Tribunal found that it was validly served and complied with all the technical requirements in the Act.
50. The Tribunal reminded itself that paragraph 15(2) of Schedule 1 to the Act confirms that the appeal is by way of a re-hearing and not simply a review of a housing authority’s decision.
51. From the evidence given at the Hearing, the Tribunal found that some (but certainly not all) of the hazards identified in the Improvement Notice had been addressed.
52. Whilst having some sympathy with problems being compounded by Mr Jenkins’ lifestyle, and any obstruction to necessary remedial works being

undertaken, the Tribunal rejected Ms Hartley's submissions as to why some of the works should not be necessary. She should have invested more urgency in carrying out works needed to alleviate clear risks. As an example and as was acknowledged, the banister is clearly insecurely attached. The photographs clearly show that each of 2 brackets has screws missing. It is not sufficient for Ms Hartley to have repeatedly said that she was not specifically advised of problems by her tenant.

53. The Tribunal was unimpressed by :-

- what appeared to be Ms Hartley's reactive rather than proactive management of the property,
- as exemplified by, the lack of attendance to the necessary annual gas safety inspections by the due dates,
- the provision of an electric hob which appeared, at best, to be old bankrupt stock,
- the lack of any hardwiring for the same which should have been a self-evident necessity, and which as the photographs clearly showed had instead been plugged into an extension lead, and
- Ms Hartley's apparent willingness to leave matters in abeyance and on the basis that when the present tenant vacates the property it would be sold.

54. Section 9(2) of the Act confirms that regard must be had to the Operating Guidance and the Enforcement Guidance.

55. The Operating Guidance states in bold letters in paragraph 1.12 that the underlining principle of HHSRS is that: –

“Any residential premises should provide a safe and healthy environment for any potential occupier or visitor.”

56. Paragraph 4.11 under the heading “identifying hazards” confirms that “as a minimum, a dwelling should be capable of satisfying the basic and fundamental needs for everyday life of the household. It should provide shelter space and facilities for the occupants. And, it should be suitable for the spectrum of households and individuals who could normally be expected to occupy a dwelling of that size and type”.

57. The Operating Guidance in paragraph 3.02 confirms “The rating system procedure requires, for each hazard, 2 judgements from the Inspector. These are an assessment of: –

- (a) the likelihood, over the next 12 months, of an occurrence that could result in harm to a member of the vulnerable group; and
- (b) the range of potential outcomes from such an occurrence.”

In other words, a 2 stage process of addressing first the likelihood of an occurrence and then the range of potential harm outcomes.

58. Paragraph 3.14 makes it clear that assessing likelihood is not determining or predicting that there definitely will be an occurrence.
59. As was confirmed at the Hearing excess cold is one of the highest scoring and most prevalent hazards.
60. It was also noted that the Guidance when discussing the hazard of “falling on stairs” states that “An accident is 3 times more likely to occur on stairs without carpet covering, including those stairs intended to be left uncovered.” (Paragraph 21.16).
61. Paragraph 21.22 also states “Handrails provide assistance in ascent and descent, and offer a handhold if there is a misstep and so can prevent a fall. Handrails on both sides of the stairs provide the safest arrangement”.
62. The Tribunal is clear that the property still suffers from both Category 1 and Category 2 hazards. In this case the seriousness of the potential harm outcomes is clearly compounded by the property being occupied both by a tenant with limited mobility and a child.
63. Nevertheless, because of the limited works that have been undertaken and because of the additional hazard identified after the issue of the Improvement Notice, the Tribunal concluded that the specification of necessary remedial works should now be varied.
64. The Tribunal in reviewing the specification and making its own decision as to what are appropriate remedial works did have regard to questions of affordability, but was minded that paragraph 1.18 of the Operating Guidance states that “For the purposes of the HHSRS, the assessment is solely about the risk to health and safety. The feasibility, cost or extent of any remedial action is irrelevant to the assessment.”
65. The Tribunal, having carefully assessed all of the evidence, concluded that the Improvement Notice should be varied in accordance with the provisions referred to in the Schedule to this Decision.
66. In so doing the Tribunal also considered what timescales should be set for the completion of the outstanding remedial works.
67. The Tribunal is of course fully aware of the problems caused to all by the pandemic. It is accepted that there would have been difficulties in obtaining tradespeople during the first lockdown in March 2020. However, thereafter it has been possible for essential trades to continue to work within Government Guidance and, the Tribunal is aware that many in the building trade have continued to both be available and to work. Ms Hartley confirmed that she is an experienced landlord with a portfolio of 10 properties. As such she should have all the necessary contacts. It is also noted that some 12 months have passed since the Council alerted her to risks, which as the owner of the property for nearly 20 years, she should have already been fully aware of. The Tribunal sees no reason to allow extensive periods for the necessary remedial works to be completed, nor does it accept that she should wait until Mr

Jenkins might vacate particularly as there is no absolute certainty as to when that might take place.

68. The Tribunal has therefore determined that the remedial works are to be started within 30 days of service of this Decision, and completed within 6 weeks of the date of service.

Charge by the Council

69. Having found that the Council acted appropriately in issuing the Improvement Notice, the Tribunal also found it appropriate to make an order under section 49(7) of the Act requiring Ms Hartley to make payment of the Council's reasonable charges in relation to the preparation and service of the Improvement Notice.
70. The Council has provided a breakdown of the time involved by the relevant employees, together with their hourly rates, all of which the Tribunal found reasonable. It was also noted that the consequent calculation was thereafter capped in accordance with the Council's own policy.
71. The Tribunal has determined that £400 is a reasonable charge to be paid by Ms Hartley in accordance with the separate Notice served on 15 September 2020.

Costs

72. The Tribunal then went on to consider whether there should be any order as to costs in relation to either the application or the proceedings.
73. Neither party has made an application for costs, but the Tribunal is entitled under the Tribunal Procedure (First tier Tribunal) (Property Chamber) Rules 2013 to make an order on its own initiative.
74. Paragraph 13 of those Rules provides that a Tribunal may determine that one party to the proceedings pays the costs incurred by the other party, in the limited circumstances set out in that Rule, if that party has acted unreasonably in bringing, defending or conducting those proceedings.
75. The Tribunal decided that, in all the circumstances of this case, it would not be appropriate to make a costs award.

The Schedule

The Improvement Notice shall henceforth be read and construed, as if :-

- the reference to the hall window within the description of the hazards had been deleted,
- a reference to the unsafe banister had been included, and with
- the substitution of the following actions to be taken for those originally included

1. All the windows are to be properly checked and where necessary repaired in a good and workmanlike manner to ensure that all are properly sealed around the edges, all openings open and close fully, easily and properly so as to ensure that each window is weathertight and reasonably free of draughts whilst providing adequate background ventilation. Any windows that cannot be repaired properly or economically, such as the front window in the main bedroom, are to be replaced with new windows to current standards and installed in accordance with FENSA regulations.
2. If the patio doors in the lounge are not replaced with new secure doors to current standards in accordance with FENSA regulations, they must be securely sealed so as to be free of draughts.
3. Overhaul or replace the external door in kitchen and carry out works as necessary to leave it free of draughts. Works to include fitting a suitable threshold strip.
4. Seal the gap between the kitchen worktops and adjacent wall surfaces with a suitable flexible sealant.
5. Overhaul, repair and where necessary replace in a good and workmanlike manner all treads and risers on the staircase presently in a poor condition to eradicate the springiness in the steps. The entire staircase must be left in a stable, level and safe condition.
6. Carry out all necessary works to the treads of the stairs to provide a surface which offers better grip, such as a suitable and properly fitted carpet.
7. Carry out repairs as necessary to properly secure and fix the existing handrail to the staircase, and install, properly secure, and fix a further handrail on the opposite side of the staircase.
8. Ensure that the electrical hob is properly hardwired through an appropriate circuit of sufficient capacity, with a dedicated isolation, to fully comply with all current regulations by a suitably qualified electrician and who must thereafter provide an appropriate certificate to the Council confirming compliance with such regulations. The appliance is to be left in full and proper working order.
7. Inspect and test all the electrical installations and appliances supplied by the landlord throughout the premises and carry out all works found necessary to leave it, and all such appliances, in a full, proper and safe working condition. All works must be carried out by a suitably qualified electrician and accordance with current requirements of BS7671. The appropriate PAT test certificates relating to the landlord's appliances, together with the final test certificate relating to the hardwiring must be forwarded to the Council as proof of completion.

JM Going
Tribunal Judge
13 August 2021