



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

Case reference : **LON/00AG/HNA/2023/0074**

Property : **Flat 42, Lorraine Court, Clarence Way.
NW1 8SG**

Applicant : **Ms Shafia Rahman**

Representative : **n/a**

Respondent : **London Borough of Camden**

Representative : **Ms R Roberts of Counsel**

Type of application : **Appeal against a financial penalty -
Section 249A & Schedule 13A to the
Housing Act 2004**

Tribunal members : **Tribunal Judge I Mohabir
Ms J Mann MCIEH**

Venue : **10 Alfred Place, London WC1E 7LR**

Date of decision : **12th February 2024**

DECISION

The documents that the Tribunal were referred to are in two bundles, the Applicant's bundle comprising 20 pages, the Respondent's bundle comprising 191 pages, and the Respondent's supplementary response of 2 pages, the contents of which have been noted.

Decision of the tribunal

1. The Tribunal determines to confirm the three financial penalties imposed on the appellant as follows;

Two offences against section 72(3) of The Housing Act 2004 ("the Act") of a licence holder failing to comply with any condition of the licence

- a) £4600 for breach of HMO licence condition 1 (Occupation of Centre Left Room)
- b) £3600 for breach of HMO licence condition 2 (not completing schedule of works within the required timescales including fire safety works, lack of mechanical ventilation, provision of electric sockets)

And one offence against section 234 of the Management of Houses in Multiple Occupation (England) Regulations 2006 ("the Regulations")

- c) £300 for failure to comply with regulation 8(2)(c) duty to keep window in good repair (cracked glass to front left room window).

Total amount of penalty imposed on the Applicant is £8,500.

2. The Tribunal makes the determinations as set out under the various headings in this decision.

The application

3. The Applicant is appealing against the imposition of three financial penalties by the Respondent, the London Borough of Camden ("Camden")
4. The Applicant was also appealing against two further Financial Penalties for Breach of Licence Condition 5 (Display of Licence) and Breach of Licence Condition 18 (provision of receptacles for recycling and rubbish). Notices of Intent to impose a financial penalty were also served by Camden for these two breaches but following representations by the applicant the authority did not proceed with the Final Notice to impose penalties for these two conditions.

5. The Applicant is appealing against the imposition and level of the financial penalty on the basis that:
 - It is inappropriate to impose a financial penalty.
 - The level of penalty is too high.
6. The alleged offences were committed on or about 31st January 2023 when the Camden inspected the property. The three Notices of intent to issue a financial penalty in respect of the failure to comply with licence conditions 1 and 2, and breach of section 8 (2) (c) of the Regulations were dated 28th April 2023. The Final Notices for the three Financial Penalties were served by the respondent on the appellant on 14th July 2023. The first imposed a financial penalty of £4600 for the offence of failing to comply with condition 1 of the HMO licence permitting occupation of the Centre Left room, which was smaller than the Camden’s minimum room size standard for a bedsitting room.
7. The second imposed a financial penalty of £3600 for the offence of failing to comply with condition 2 of the HMO Licence, which was a Schedule of Works on the HMO Licence to bring the HMO up to the required standards including fire safety works, mechanical ventilation to be provided to the kitchen and bathroom, and the provision of additional electrical sockets.
8. The third imposed a financial penalty of £300 for breach of the duty to maintain the windows in a good state of repair under the Regulations
9. The application to appeal is dated 11th August 2023.
10. Flat 42 Lorraine Court, Clarence Way (“the property”) comprises a two-bedroom flat in a purpose-built block of flats that the applicant advised was converted to a four room flat by division of the lounge into two rooms following permission from Camden in 2015. The Respondent states that this permission was possibly given by the leaseholders department because Camden are the freeholders and would require leaseholders to seek authorisation prior to undertaking alterations to a flat.
11. The occupants of the flat at the time of inspection were Malika Riffet in the front left room, Joseph Osbourne Gregory in the Centre left room, Stella Henrietta Blackman in the Rear Left room and Somtolise Elumogo in the Rear Right Room. Therefore, four tenants in total in four rooms with a shared kitchen with a small breakfast bar, a shared bathroom, but no living room.

12. The Applicant indicated in her written evidence that there were difficulties in obtaining access to do the required works because the tenants initially refused entry and suggested that the rent should be reduced by 50% before they would permit access.

The hearing

13. The hearing took place on 5th February 2024.
14. The Applicant did not attend the hearing and was not represented. Nevertheless, the Tribunal was satisfied that she was on notice of the hearing and in the absence of any good reason for her non-attendance, it decided to proceed with the hearing.
15. The Respondent was represented by Ms R Roberts of Counsel. Ms Suarez, an Environmental Health Officer at Camden was present and gave evidence as a witness.

The background

16. Camden granted an HMO licence within the Additional HMO licence scheme under section 64 of the Housing Act 2004 for the property on 12 August 2019. The Licence holder is Ms Shafia Rahman, the Applicant.
17. The front page of the licence states in point 2 that “the maximum permitted number of persons to occupy the property is 3. It is important to have regard to the tables at the end of this document for details of how this has been calculated.”
18. The front page of the licence in point 3 states “The required works identified during the inspection to achieve compliance with condition 2 of this licence are detailed in the attached schedule of works. These works must be completed within the timescales specified on the Schedule of works.”
19. There was no appeal against the issue of the HMO Licence or its conditions.
20. The Applicant’s grounds of appeal with respect to the Civil Penalty for occupation of the zero room is that their agent applied for the HMO licence on their behalf in 2019. Her husband usually deals with the day-to-day management of the property despite English not being his first language. Once the licence was granted no one clarified otherwise to them. Due to covid the property was left empty for a long time and the

paperwork was put away until January 21 when a young family moved into the property. Once this had been brought to the Applicant's attention, she reviewed the paperwork and realised that they had made a mistake.

21. The Applicants' grounds of appeal with respect to the Civil Penalties for breach of condition 2 (fire and safety works) and regulation 8 (2) (c) (window repair) was a refusal of access to do the works by the tenants unless the rent was reduced by 50%. The Applicant believes she had discharged her duty of care to the tenants and the fine is unreasonable.

The local authority's dealing with the property

22. Ms Suarez, Environmental Health Officer inspected the property on 31st January 2023 following receipt of a complaint to the council on 23 November 2022 about the level of occupancy of the flat with regard to the licence, mice activity and mould growth.

The law

S249A(1) and (2) of the Housing Act 2004 provide,

- (1) *The local housing authority may impose a financial penalty on a person if satisfied, beyond reasonable doubt, that the person's conduct amounts to a relevant housing offence in respect of premises in England.*
- (2) *In this section "relevant housing offence" means an offence under-*
 - (a) *section 30 (failure to comply with an improvement notice),*
 - (b) *section 72 (licensing of HMOs),*
 - (c) *section 95 (licensing of houses under Part 3),*
 - (d) *section 139(7) (failure to comply with overcrowding notice), or*
 - (e) *section 234 (management regulations in respect of HMOs).*

Section 72 (2) and (3) of The 2004 Act provide that,

- (2) *A person commits an offence if—*
 - (a) *he is a person having control of or managing an HMO which is licensed under this Part,*
 - (b) *he knowingly permits another person to occupy the house, and*
 - (c) *the other person's occupation results in the house being occupied by more households or persons than is authorised by the licence.*
- (3) *A person commits an offence if—*

- (a) he is a licence holder or a person on whom restrictions or obligations under a licence are imposed in accordance with section 67(5), and*
- (b) he fails to comply with any condition of the licence.*

Section 72 (5) of the 2004 Act provides,

In proceedings against a person for an offence under subsection (1), (2) or (3) it is a defence that he had a reasonable excuse—

- (a) for having control of or managing the house in the circumstances mentioned in subsection (1), or*
 - (b) for permitting the person to occupy the house, or*
 - (c) for failing to comply with the condition,*
- as the case may be.*

Section 234 of the 2004 Act provides,

Management regulations in respect of HMOs

(1) The appropriate national authority may by regulations make provision for the purpose of ensuring that, in respect of every house in multiple occupation of a description specified in the regulations—

- (a) there are in place satisfactory management arrangements; and*
- (b) satisfactory standards of management are observed.*

(2) The regulations may, in particular—

(a) impose duties on the person managing a house in respect of the repair, maintenance, cleanliness and good order of the house and facilities and equipment in it;

(b) impose duties on persons occupying a house for the purpose of ensuring that the person managing the house can effectively carry out any duty imposed on him by the regulations.

(3) A person commits an offence if he fails to comply with a regulation under this section.

(4) In proceedings against a person for an offence under subsection (3) it is a defence that he had a reasonable excuse for not complying with the regulation.

The Management of Houses in Multiple Occupation (England) Regulations 2006 section 8 (2) provides,

Subject to paragraphs (3) and (4), the manager must ensure, in relation to each part of the HMO that is used as living accommodation, that—

- (a) the internal structure is maintained in good repair;*
- (b) any fixtures, fittings or appliances within the part are maintained in good repair and in clean working order; and*
- (c) every window and other means of ventilation are kept in good repair.*

Section 263 Housing Act 2004

Meaning of “person having control” and “person managing” etc.

(1) In this Act “person having control”, in relation to premises, means (unless the context otherwise requires) the person who receives the rack-rent of the premises (whether on his own account or as agent or trustee of another person), or who would so receive it if the premises were let at a rack-rent.

(2) In subsection (1) “rack-rent” means a rent which is not less than two-thirds of the full net annual value of the premises.

(3) In this Act “person managing” means, in relation to premises, the person who, being an owner or lessee of the premises—

(a) receives (whether directly or through an agent or trustee) rents or other payments from—

(i) in the case of a house in multiple occupation, persons who are in occupation as tenants or licensees of parts of the premises; and

(ii) in the case of a house to which Part 3 applies (see section 79(2)), persons who are in occupation as tenants or licensees of parts of the premises, or of the whole of the premises; or

(b) would so receive those rents or other payments but for having entered into an arrangement (whether in pursuance of a court order or otherwise)

*with another person who is not an owner or lessee of the premises by virtue of which that other person receives the rents or other payments;
and includes, where those rents or other payments are received through another person as agent or trustee, that other person.*

(4) In its application to Part 1, subsection (3) has effect with the omission of paragraph (a)(ii).

(5) References in this Act to any person involved in the management of a house in multiple occupation or a house to which Part 3 applies (see section 79(2)) include references to the person managing it.

The issues

23. The issues before the tribunal are:

- (a) Whether the Tribunal is satisfied, beyond reasonable doubt, that the Applicant's conduct amounts to a "relevant housing offence" in respect of premises in England (see sections 249A(1) and (2) of the Act);
- (b) Does the Applicant have a reasonable excuse defence?
- (c) If the Applicant has committed the offences and did not have a reasonable excuse what was the appropriate level of penalty?

The determination

Is the Tribunal satisfied beyond reasonable doubt that the offence has been committed?

- 24. The Respondent stated that it received a complaint on 23rd November 2022 relating to the property.
- 25. Ms Suarez obtained authorisation to enter as required by sections 239 and 243 of the Act on 31st January 2023. She decided to inspect without notice of entry to prevent the removal of evidence of occupancy.
- 26. The inspection took place on 31st January 2023. Ms Suarez was met by 4 tenants at the property and saw a copy of their tenancy agreement. Ms Suarez saw that the Centre Left room, which had zero occupancy on the HMO licence and was occupied as a bedroom by Mr J Gregory. The room had a bed, laptop, clothes, shoes and was occupied as his sole residence as a student at the time.

27. The inspection also found that works specified in the schedule of works under licence condition 2 had not been carried out in the specified time frame. Fire precautions works should have been carried out within 3 months of the licence being issued by 11th November 2019. Provision of mechanical extractor fans to the kitchen and bathroom should have been completed within 6 months of the licence by 11th February 2020 and provision of power sockets in the kitchen and bedrooms should have been completed within 2 years of the licence being issued by 11th August 2021.
28. The inspection also found evidence of poor management, a broken double glazed window to the front left room. There was a significant amount of dust on the window and the tenant occupying the room Ms Riffert said that it had been broken when she moved in on 10th September 2022.
29. An e-mail with a summary of the inspection was sent to the Applicant on 13th February 2023. A section 16 Local Government Miscellaneous Provisions Act 1976 Notice requiring information was served on 15th February 2023. The Applicant replied on 16th February 2023 confirming to be a leaseholder, the landlord of the HMO, in receipt of rent from the occupiers and confirming occupation of each room including the centre left room, which had zero occupation on the HMO licence. She also provided information on the deficiencies noted in the inspection.
30. Ms Suarez obtained council tax records on 16th February 2023 for the property, which showed at least two changes of tenancies where the number of occupants could have been reduced from 4 to 3 but were not.
31. Ms Suarez served a section 235 Housing Act notice on the agents for the property, 42 Rochester Place Ltd, on 24th February 2023. A reply was received on 1st March 2023, which included a copy of the tenancy agreement between the Applicant and the tenants for a term from 10th September 2022 to 9th September 2023. In their reply the agents advised they offered letting only services to the Applicant.
32. Ms Suarez served five Notices of Intent to serve financial penalties on the Applicant, for a total of £9,250 on 28th April 2023, who responded to the receipt of the Notice of Intention by email on 19th May 2023 stating that she had made a mistake with regard to occupancy, the tenants would not permit access to do the works, the tenants had removed the Licence copy and the recycling and rubbish receptacles.
33. Ms Suarez considered the representations and decided they mostly had no merit. The Notices of Intent for HMO licence conditions 1 and 2 and the management regulations were upheld. The Notice of Intent for licence conditions 5 and 18 were cancelled.

34. On 14th July 2023 3 final Notices to impose a financial penalty were issued to the Applicant. She then submitted an appeal against the Financial Penalties to the Tribunal on 11th August 2023.
35. The Applicant listed a number of completed works in the appeal application.
36. A further inspection of the flat was undertaken on 6th September 2023 by Ms Suarez and this identified that some of the works reported by the applicant as completed were not fully completed. For example, there was now fire detection to the kitchen and hallway of the property but there were still no smoke alarms installed to the bedrooms, the fire doors were missing intumescent strips and smoke seals. The entrance door to the flat had a lock that required a key to open and not a thumb turn lock, contact details of manager were not displayed and only the first page of the licence was displayed. The cracked glass to the window had been replaced. Extra sockets were still required to the kitchen. Extractor fans had been installed but there was no overrun to the bathroom fan.
37. There has been no further inspection of the property by Camden and it is therefore unknown if all remaining works are now completed to the required standard.

Decision of the Tribunal

38. The Tribunal found that all of the three offences have been committed.

Reasons for the decision of the Tribunal

39. The Tribunal accepts the evidence of the Respondent and notes that the Applicant does not disagree in their submitted evidence that there were 4 occupants in the property and the centre left bedroom was occupied, that works were required to the property as stated in the licence schedule of works, or that the window glass was cracked.

Does the Applicant have a reasonable excuse defence?

40. The Applicant says that Camden authorised conversion of the lounge to two rooms in 2015.
41. The Applicant says that she did not know about the occupancy restriction because no one clarified when the licence was served. Subsequently the licence was put away when the property was unoccupied for a long time during covid and she did not realise they had made a mistake until the matter was brought to her attention.

42. The Respondent believes that authorisation may have been obtained from the leaseholders department to do the works because Camden is the freeholder of the building. Regardless, an authorisation to do works does not exempt the Applicant from HMO standards.
43. The Respondent states that it was the licence holder's responsibility to read the correspondence sent to her on 12th August 2019 including the terms and conditions of the licence. If the Applicant did not understand the documents, she should have sought assistance or could have contacted the council for clarification from the HMO Licensing Team, which was explained in the covering letter. The Respondent points out that the offences are strict liability, not requiring proof of a Defendant's intention.
44. The Respondent submits that Council records show that the property was not vacant for a long time due to Covid-19 pandemic. The licence was granted 7 months before the Covid pandemic first lockdown was implemented and a month before a new set of tenants moved in on 17th September 2019. The Applicant had several opportunities at the change of tenancies to reduce the number of people occupying the property, but failed to do so.
45. The Respondent submits that by exceeding the maximum occupancy the Applicant benefitted financially from committing the offence.
46. The Applicant submits that it was unfair to find that condition 2 of the licence and regulation 8(2)(c) has been breached because they had eagerly and actively been trying to carry out the works but the tenants had refused access and cancelled a date for works at the last minute because of exams.
47. The Respondent submits that the attempts to carry out the works by the applicant were post the inspection on 31st January 2023. The Applicant presents no argument as to why the works were not completed within the timescales required by the licence condition, which were within 3 months, 6 months and two years from the licence date of 12th August 2019.
48. Not undertaking the works left the occupants lacking a protected means of escape, there were insufficient sockets prompting tenants to use extension leads that are associated with starting fires and may cause tripping accidents and no mechanical ventilation to the kitchen and bathroom.
49. The Respondent indicates that the Applicant gives no explanation as to why disrepair to windows was allowed to exist without being resolved. The tenant advised Ms Suarez that they had reported the defective window but nothing was done.

The decision of the Tribunal

49. The tribunal found that the Applicant has no reasonable excuse defence for any of the three offences.

The reasons for the decision of the Tribunal

50. The Tribunal does not agree with the Applicant that not being aware of the need to comply with licensing conditions is a reasonable excuse. The Applicant should have read the documents sent to her by Camden in August 2019. The Applicant could have contacted the Council if she did not understand what was required of her or could have sought advice from other sources such as a Solicitor or her agents who had applied for the HMO licence on her behalf.
51. The civil penalty offence is strict liability and future intention and events cannot remedy a breach of the licensing condition retrospectively. Ms Suarez witnessed the offences on 31st January 2023 and this is not disputed by the Applicant. Based on the council tax information the occupancy offence had continued the majority of time since the HMO licence was issued in 2019 despite several opportunities to comply without unlawfully evicting tenants. Therefore the penalties are validly incurred.
52. Ms Suarez gave evidence that none of the schedule of works on the HMO licence issued on 12 August 2019 had been undertaken when she inspected on 31st January 2023. The works were overdue by several years and resulted in increased risks to the occupants including inadequate means of escape, risk of accidents and risk of harm from mould resulting from inadequate ventilation. The works had not been completed at the follow up inspection on 6th September 2023 despite the Applicant's assertion that they had been done. The Applicant advised Ms Suarez that her builder had let her down because she had given them the schedule of works but had not read the works herself. The Tribunal considers that it is the responsibility of the licence holder to properly instruct contractors on the works required and to check that all the required works have been completed.

Should a financial penalty have been imposed?

The decision of the Tribunal

53. The Tribunal determines that the Respondent was entitled to impose the three Financial Penalties.

The reasons for the decision of the Tribunal

54. On the evidence before it the tribunal is satisfied beyond all reasonable doubt that the Applicant's conduct amounts to three relevant housing offences. The Applicant was the person managing or having control of the property and was the licence holder.
55. The Tribunal is satisfied that Camden had complied with the necessary requirements and procedures relating to the imposition of the financial penalty in section 249A and paragraphs 1 to 8 of schedule 13A of the Act. Notices of Intent with the required information were given on 28th April 2023. The Applicant was made aware of the right to make representations within 28 days on the Notice of Intent. Valid Final Notices were issued on 14th July 2023.

What was the appropriate level of penalty?

56. The appeal is by way of a rehearing.
57. In ascertaining the level of penalty to be charged the Tribunal had regard to the Council's policy and whether it was followed by the Council. Whilst it was not referred to in the hearing, this approach is consistent with the Upper Tribunal decision in *Waltham Forest LBC v Marshall* [2020] 1 WLR 3187
58. The Respondent's policy statement on enforcement in relation to the Private Sector Housing Service (PSH) is in the bundle before the Tribunal and it has had regard to it.
59. The Respondent submitted that it has regard to the Department for Communities and Local Government guidance for Local Housing Authorities on Civil Penalties under The Housing and Planning Act 2016. As per the guidance the factors to be taken into account when deciding the level of civil penalty are:
 - Severity of the offence
 - Culpability and track record of the offender
 - The harm caused to the tenant
 - Punishment of the offender
 - Deter the offender from repeating the offence

- Deter others from committing similar offences
 - Remove any financial benefit the offender may have obtained as a result of committing the offence.
60. The Respondent also submitted that the information collected during the investigation was assessed against the Crown Prosecutors Code to see whether there was a realistic prospect of conviction base on the evidential and public interest stage.
61. The Council’s Civil Penalty calculation method has regard to a matrix for the severity of the offence, which is to be read in conjunction with the associated guidance on specific offences. The matrix is intended to provide an indicative ‘tariff’ under the various offence categories, with the final level of the civil penalty adjusted in each case to take into account other relevant or aggravating factors.
62. In addition to the relevant factors listed under each offence category the Council Policy states it will have regard to the following general factors in determining the final level of the civil penalty:
- A previous history of non-compliance would justify an increased civil penalty. Examples of previous non-compliance would include previous successful prosecutions including recent convictions that were ‘spent’, works in default of the landlord and breaches of regulations/obligations, irrespective of whether these breaches had been the subject of separate formal action
 - Any available information regarding the financial means of the offender, not restricted to just rental income from the rented home[s]
 - Observance of both the beginning and completion dates towards remedial action. Failure to comply with the start date without reasonable excuse should be viewed in line with a failure to complete works within the specified time, although where remedial action is reasonably underway and the completion date has passed, the Council should exercise discretion.
63. Council officers are expected to consider each case on its own merits but use the guidance to ensure a level of consistency of judgement for similar offences.
64. In relation to breach of licensing conditions the policy states that:

“failure to provide tenants with their contact details or for failing to address relatively minor disrepair would each attract a civil penalty of £1000 (band 1 moderate) for landlords/agents controlling/managing five or less HMO dwellings, or a civil penalty of £5000 (band 2 moderate) for portfolio landlord/agents

failure to provide or maintain smoke alarms in working order, failure to address serious ASB issues or the failure to carry out works/improvements imposed as a condition of a granted HMO licence would each attract civil penalty of £10 000 (band 3, serious) for landlords/agents controlling/managing five or less dwellings, or a civil penalty of £20 000 (band 5, severe) for portfolio landlords/agents”.

Aggravating features/factors

None – the nature of the licence condition breaches and their impact upon the occupiers would be an integral part of the initial assessment process

Generic aggravating features/factors

As set out in paragraph 62 of decision above.

65. The Respondent submitted that breach of licence condition 1 (occupancy) would sit somewhere between the two examples given in the policy for a non-portfolio landlord which would give a starting point of £5001, (band 2 moderate). The room measured 7.49 m², which is above the mandatory minimum standard of 6.51m² for a single occupant but below Camden’s standard for a bedsitting room where there is no shared lounge. This would have provided limited space for storage in the room and impacted on all the occupants of the flat because they did not have a shared lounge. It also increased the number of occupants sharing the small kitchen and the bathroom facilities from 3 to 4. The Applicant had several opportunities to reduce the number of occupiers of the property to 3 at changes of tenancy but did not do so. She benefitted financially from continuing to let the room. The rent paid by the 4 tenants at the time of inspection in January 2023 was £3120 pcm, assuming an even division, each tenant would pay £780 pcm rent.
66. The Applicant asserts she is an individual landlord. She and her family rely on the income to pay for their liabilities and living expenses. She states she is a housewife, her family consists of her husband who has ill health and cannot maintain regular work, her elderly mother in law and three dependent children. The Covid pandemic had a negative impact on her finances, she has two large credit card debts and household bills and childcare fees that accumulated while the property was empty. She

says interest rates and service charges have increased on the property and she is concerned that a fine or loss of rent could lead to bankruptcy. The Applicant did not provide any bank statements, or details of income and expenditure in support of her financial difficulties.

67. The Applicant further submits that no one clarified the HMO licence requirements. The licence paperwork was put away due to the property remaining empty for a long time. She realised they had made a mistake only when it was brought to her attention.
68. The Respondent submits that mitigating factors applied following the inspection were that the Applicant expressed remorse and cooperated with the investigation, she has not committed previous offences and the negative financial impact of the covid pandemic.
69. The Respondent set the financial penalty at £4,600 to reflect the financial benefit of 25 weeks of additional rental income for the room in the current tenancy. They say council tax records show that the property was not left vacant for a long time. They also took all of the mitigating factors into account.
70. The Respondent submits that its enforcement policy and its discretion were applied correctly and fairly and that it was in the public interest to apply a financial penalty.
71. The Tribunal saw no reason to depart from the approach applied by the Respondent and confirms the penalty.
72. The Respondent says that breach of licence condition 2 (failure to carry out works required by the HMO licence to comply with the HMO standards) would attract a civil penalty of £10,001 (band 3 penalty, serious). Non complying with the schedule of works left the property lacking a mains connected fire alarm system, lacking alarms in some rooms, lacking a protected means of escape, having insufficient electrical sockets and with insufficient ventilation. There was some mould growth to the bathroom ceiling thought to be caused by condensation due to lack of ventilation. The mitigating circumstances taken into account were the Applicant's remorse, no previous offences, financial distress and her attempt to do works following the offence, but tenants refused access.
73. The Applicant stated that she arranged for a builder to visit the property on 14th February 2023 but the tenants would not give consent to enter the property. Her tenants demanded a 50% reduction in rent to allow entry to do works. The Applicant submits it is unfair to suggest the condition has been breached.

74. The Schedule of Works condition required the Fire Safety Works to be completed by 11th November 2019, the extractor fans to be installed by 11th February 2020 and the additional sockets to be installed by 11th August 2021. The Applicant's attempt to carry out the works in February 2023 was long after the offence had been committed. At the time of inspection on 31st January 2023, none of the works had been done. At the follow up inspection in September 2023 some of the works were still outstanding. When Ms Suarez asked the Applicant on 6th Sept 2023 why some works had not been completed, she said the contractor had let her down and she admitted she had not read the schedule of works.
75. The Respondent submits that the mitigating factors applied were the same as the first offence and also that the Applicant had attempted to do the works after the inspection but the tenants denied access.
76. The Respondent set the level of penalty at £3,600, having reduced the penalty for the mitigating factors.
77. The Tribunal have no reason to depart from the approach applied by the Respondent and confirm the second penalty.
78. The Respondent submits that for the offence of failure to comply with Regulations the Council Policy states a landlord controlling/managing one or two HMO dwellings, who fails to address relatively minor disrepair, with no other relevant factors or aggravating/mitigating features to be taken into consideration would attract a moderate (band 1) penalty of £1,000.
79. Ms Suarez stated that only the inner pane of glass in a double glazed window was cracked, however the tenant said it had been there since they moved into the property in September and there was dust in the crack. The cracked glass would have reduced the thermal insulation of the window, but the property had gas central heating and was warm. The Respondent concluded that the cracked window glass fell in this band 1 category.
80. Mitigating elements taken into account were the Applicant's remorse following the inspection, her attempt to do remedial works, the Applicant's cooperation with the case investigation, no previous offences and financial difficulties. The window glass had been replaced at the September 2023 inspection.
81. The Respondent set the level of penalty at £300, having reduced the penalty for the mitigating factors.
82. The Tribunal have no reason to depart from the approach applied by the council and confirm the third penalty.

The decision of the Tribunal

83. The Tribunal's determines that all three financial penalties are confirmed.

The reasons for the decision of the Tribunal

84. The Tribunal accepts the Respondent's evidence that within its policy the starting point for each offence was correctly applied.
85. The Tribunal accepts that the appropriate factors were applied to determine the final amount of the penalties.
86. The Tribunal notes that the Respondent did take the financial circumstances of the Applicant into account and reduced the penalties to reflect the difficulties expressed by her despite the fact that it was unaware of the full details of those circumstances. The local authority has also offered the Applicant the facility of paying the civil penalties in instalments and the applicant may contact Camden Finance to arrange this option.

Name: Tribunal Judge Ian Mohabir

Date: 12th February 2024

Rights of Appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.

The application for permission to appeal must arrive at the regional office within 28 days after the tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28-day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the tribunal will then look at such

reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).