



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

Case Reference : **CHI/45UE/HNA/2024/0007**

Property : **34 Priors Walk, Crawley, West Sussex
RH10 1NY**

Applicant : **Mr Nasser Butt**

Representative : **No representation**

Respondent : **Crawley Borough Council**

Representative : **Mr Callum McLean of Counsel**

Type of Application : **Appeal against a financial penalty –
s249A and Schedule 13A to the Housing
Act 2004**

Tribunal Members : **Judge R Cooper
Mr M J F Donaldson FRICS
Ms T Wong**

Date and venue of Consideration : **Havant Justice Centre
10/12/2024**

Date of Decision : **31/12/2024**

DECISION

The Tribunal confirms the Final Notice issued by Crawley Borough Council ('the Council') dated 20/03/2024 imposing a financial penalty on Mr Butt of £1,000 under s249A of the Housing Act 2004, for an offence under s72(2).

Pages from the bundle, where referred to are marked [].

Background

1. On or around 16/04/2024 the Tribunal received an appeal from Mr Butt under section 249A(1) of the Housing Act 2004 ('the 2004 Act') against a financial penalty imposed on him by Crawley Borough Council ('the Council').
2. He appeals the Final Notice issued to him by the Council on 20/03/2024 which imposed a financial penalty of £1,000 for conduct amounting to a criminal offence in respect of 34 Priors Walk, Crawley RH10 1NY ('34 Priors Walk').
3. Mr Butt also appeals against a Final Notice issued to him by the Council in respect of 4 Cross Path, Crawley, West Sussex RH10 8BW (reference CHI/45UE/HNA/2024/0008). With the agreement of the parties, the appeals were heard together on the same day with evidence relating to 4 Cross Path being heard immediately after this appeal given that many of the issues were common to both appeals. The Tribunal's decision in respect of 4 Cross Path is a distinct and separate decision based on individual findings, but the decisions may be read together given that some findings relating to the other appeal may be referred to in this.

The Appeal

4. Mr Butt's grounds of appeal against the Final Notice are set out in the application and his statement of case [3] to [16] and [36] to [41]. The grounds can be summarised as follows:
 - (i) He disputes that a housing offence occurred. Although he accepted there was an unintended breach of the licence conditions, this was the result of April Clemente's actions. She was one of the tenants and had promised to move out in March 2023 but failed to do so for 4 months.
 - (ii) The Council had relied on the same facts to initially decide to impose two penalties, one for letting to more than 5 people, and the other for letting to a couple.
 - (iii) It was not proportionate to issue a penalty for such a minor breach given the nature of the housing market, the impact of Covid 19, and the difficulties in filling voids in shared properties in Crawley,
 - (iv) He should not be personally penalised as the property was managed on behalf of the Platinum Properties Partnership (which owns a portfolio of 9 houses) or Platinum Equities Management Ltd (PEM Ltd).
 - (v) The council officer investigating had been unreasonable in his approach,
 - (vi) A financial penalty should not be imposed given that it would have significant personal impact. He was an accountant and an

- upstanding and active member of the community who had been assisting those with housing need, and
- (vii) The penalty was excessive. There were no aggravating factors, no harm had been done, there were mitigating factors and he had co-operated with the Council fully.

The Response

5. The Respondent's response is set out in the statements of Diana Maughan [83] to [88] and Graham Stubbs [89] to [93] and [107] to [108], and can be summarised as follows:
- (i) Mr Butt is the holder of the licence and was the person actively engaged in managing the lettings at 34 Priors Walk. He was responsible for the breach of licence conditions.
 - (ii) April Clemente had a 6-month assured shorthold tenancy from 29/01/2023 and was still living in the property when Mr Butt granted a new tenancy to a 6th person on 6/06/2023, which exceeded the maximum of 5 permitted under the licence.
 - (iii) The Council had initially issued two Notices of Intent against Mr Butt, but decided he had a reasonable excuse in relation to one of the alleged breaches (allowing a couple to occupy a room rather than a single person) so they had not proceeded with it.
 - (iv) The decision to impose a penalty was appropriate and proportionate and was in line with the Council's policy. It reflected the seriousness of the offence and complied with the Council's duty to deter both Mr Butt and other private sector landlords from breaching their licence conditions.

The Documents

6. The documents considered by the Tribunal are in the appeal bundle (201 PDF pages) which included the notice of appeal, the statement of case and Mr Butt's documents in support, and witness statements and evidence relied on by the Respondent.
7. In addition to the appeal bundle, Mr McClean provided a skeleton argument shortly before the hearing.

Inspection

8. The Property was not inspected. No party had requested one, and it was not considered necessary by the Tribunal for a fair decision to be made.

The Hearing

9. The hearing took place remotely by video in a combined hearing with CHI/45UE/HNA/2024/0008 given that many of the issues were

common to both. Mr Butt represented himself at the hearing and Mr McLean represented the Council.

10. The Tribunal heard oral evidence from Mr Butt and from two witnesses for the Council – Diana Maughan and Glenn Stubbs (the Head of Strategic Housing and a Private Sector Housing Officer respectively), and submissions from Mr Butt and Mr McLean. The recording of the hearing stands as the record of proceedings.
11. Judgment was reserved.

REASONS FOR THE DECISION

The Legal Framework

Power to impose a financial penalty

12. Section 249A of the Housing Act 2004 allows a local housing authority to impose a financial penalty on a person if it is satisfied to the criminal standard - beyond reasonable doubt - that the person's conduct amounts to a 'relevant housing offence' in respect of premises in England.
13. The relevant housing offences are listed in section 249A(2). They include the offence, of a person having control or managing a licenced HMO, who knowingly permits another person to occupy the house, where that person's occupation results in the housing being occupied by more households or persons than is authorised by the licence section (72(2) of the 2004 Act). It also includes the offence of a licence holder failing to comply with conditions of the licence (s72(3) of the Act).
14. Only one financial penalty under section 249A may be imposed on a person in respect of the same conduct. The amount of that penalty is determined by the local housing authority (to a maximum of £30,000). The imposition of a financial penalty is an alternative to instituting criminal proceedings for the offence in question.

Procedural requirements

15. Schedule 13A to the 2004 Act sets out the procedure which local housing authorities must follow.
16. Before imposing a financial penalty on a person under s249A, the local housing authority must give them a 'notice of intent' (paragraphs 1 and 3) setting out:
 - (a) the amount of the proposed financial penalty
 - (b) the reasons for proposing to impose it; and
 - (c) information about the right to make representations.
17. Unless the conduct to which the financial penalty relates is continuing, the notice of intent must be given before the end of the period of six

months beginning on the first day on which the local housing authority has sufficient evidence of that conduct (paragraph 2).

18. A person who is given a notice of intent has the right to make written representations to the local housing authority about the proposal to impose a financial penalty within a 28-day period beginning the day after the date on which the notice of intent was given (paragraph 4). After the end of that period, the local housing authority must decide whether to impose a financial penalty and, if it decides to impose a penalty, the amount (paragraph 5).
19. If the local housing authority decides to impose a financial penalty on a person, it must give that person a final notice setting out the following (paragraphs 6 and 8):
 - (a) the amount of the financial penalty,
 - (b) the reasons for imposing it,
 - (c) information about how to pay the penalty,
 - (d) the period in which the penalty should be paid,
 - (e) information about rights of appeal, and
 - (f) the consequences of a failure to comply with the notice.

Relevant guidance

20. Local housing authorities must have regard to any guidance given by the Secretary of State about the imposition of financial penalties (paragraph 12). The relevant statutory guidance is the *Civil penalties under the Housing and Planning Act 2016 – Guidance for Local Housing Authorities* issued by the Ministry of Housing, Communities and Local Government in April 2018 ('the 2018 Guidance'). That guidance states local housing authorities are expected to develop a policy about when to prosecute and when to issue a financial penalty. They should also develop a policy on determining the appropriate level of penalty in a particular case. However, the 2018 Guidance makes it clear that local housing authorities should decide which option to pursue on a case by case basis.
21. The 2018 Guidance states that in general the maximum amount (£30,000) should be reserved for the very worst offenders and '*the actual amount levied in any particular case should reflect the severity of the offence as well as taking account of the landlord's previous record of offending.*'
22. The guidance sets out a number of factors which local housing authorities should consider in order to ensure that financial penalties are set at an appropriate level. These are as follows:
 - the severity of the offence
 - the culpability and track record of the offender
 - the harm caused to the tenant(s)
 - punishment of the offender

- deterrence of the offender from repeating the offence
- deterrence of others from committing similar offences, and
- removal of any financial benefit the offender may have obtained as a result of committing the offence.

23. Crawley Borough Council adopted a policy relating to financial penalties in accordance with the 2018 Guidance on 29/11/2017 (which was amended in October 2023) [29]

Appeals

24. If a final notice is given under Schedule 13A to the 2004 Act, the penalty must be paid within 28 days of the day after the date on which the notice was given. However, this is subject to the right of the person to whom a final notice is given to appeal to the Tribunal (under paragraph 10 of Schedule 13A).

25. An appeal may be made against the decision to impose the penalty or the amount of the penalty. An appeal must be made within 28 days of the date on which the final notice was sent to the appellant.

26. If an appeal is made, the final notice is then suspended until the appeal is finally decided or is withdrawn (paragraph 10(2)).

Discussion and conclusions

27. This appeal takes the form of a re-hearing. In other words, the Tribunal is not simply reviewing the action taken by the Council, but it stands in the shoes of the Council, and it may make any decision the Council had the power to make. This can include cancelling the Final Notice, varying the financial penalty or confirming it. The Tribunal may take into account evidence that was not considered by the Council at the time it made the Final Notice on 20/03/2024.

The procedural requirements

28. When considering Mr Butt's appeal against the financial penalty, the Tribunal must be satisfied the necessary procedural steps were taken by the Council required by Schedule 13A of the Act. The Upper Tribunal has confirmed that because a civil penalty is an alternative to a criminal prosecution, local housing authorities must treat their responsibilities with the same degree of seriousness and transparency (*Welwyn Hatfield BC v Wang* [2024] UKUT 24 (LC) at [18])

29. In his evidence and submissions to the Tribunal, Mr Butt, in summary, said there was confusion about whether a household consisting of a couple were permitted to live at the property if the maximum number of people was not exceeded [37].

30. Although the second Notice of Intent has not been produced in evidence it is agreed between the parties that initially two separate offences had been identified by the Council. The first a breach of the condition that only one person was permitted per room and the second that there had been a breach of the total number of occupants. The evidence from the Council showed the first had been withdrawn following Mr Butt's representations, and certainly there was only one offence in the final notice.

31. The Council in its statement of the reasons for recommending a financial penalty stated as follows:

Between 06.06.2023 and 27.07.2023, you, Mr Nasser Butt, being the holder of licence in respect of a house in multiple occupation, 34 Priors Walk, Three Bridges, Crawley, RH10 1 NY ("the Property"), did fail to comply with a condition of that licence, in that you permitted 6 persons occupy the Property contrary to a condition of the licence which specified a maximum of 5 persons may occupy the Property, contrary to section 72(3) of the Housing Act 2004 ("the Act")

32. The Tribunal is satisfied that the Notice of Intent relied on by the Council provided clear reasons enabling Mr Butt to know what offence he was accused of, how much the proposed penalty was and what factors had been taken into account so he could respond to the allegations. There was nothing in the notice to suggest the Council were pursuing a breach of the licence condition that only a single person could occupy a room.

33. The Notice of Intent was served on 25/01/2024 [44]. The Tribunal was satisfied this was within 6 months of 27/07/2023 which is when the Council say it had sufficient evidence to demonstrate the offence had been committed. Whilst Mr Stubbs had by 4/07/2023 obtained witness statements from residents at 34 Priors Walk which indicated that more than the permitted number of residents were living in the house, including one couple, this was not in itself sufficient evidence beyond reasonable doubt that an offence under s72(2) or 72(3) of the Act had been committed. The witness statements on their own were not evidence beyond reasonable doubt that Mr Butt had knowingly permitted the over occupation or breach of condition. The Tribunal was satisfied that Mr Stubbs' enquiries were not completed until on or around 21/09/2023, when the Council obtained confirmation as to the dates on which all the tenants had left the property and, therefore, clarified the dates of the offence. It was also not until it received Mr Butt's response to the request for information under s16 of the Local Government (Miscellaneous Provisions) Act 1976 dated 29/08/2023 [198] that the Council had clear documentary evidence of Mr Butt's role in relation to the property. This response confirmed Mr Butt was the letting manager 34 Priors Walk, was authorised to manage the property on behalf of his daughter who owned it and was signing on behalf of Platinum Properties Partnership. As the Notice of Intent was served

within 6 months of that date, it was in time and Council was not time-barred.

34. The notice of intent gave Mr Butt the opportunity to make representations to the Council stating why he disagreed. He did so by 23/02/2024 within 28 days of the date the Notice of Intent was served.
35. The Tribunal was satisfied that the Council had taken into account his representations before reaching the decision to issue a Final Notice on 20/03/2024. Appendix 2 of the Final Notice expressly refers to Mr Butt's submissions and explains the reasons why they had been rejected [2]. The Council was entitled to reject his representations for the reasons it did.
36. For all these reasons, the Tribunal was satisfied that the correct procedural steps had been taken by the Council.

The offence

37. Having considered the totality of the evidence the Tribunal was satisfied beyond reasonable doubt that Mr Butt had committed an offence under s72(2) of the Act for the following reasons.

Conduct

38. The witness statements and emails from tenants, and the tenancy agreements exhibited to Mr Stubbs's witness statement show that between 06/06/2023 (when he granted a tenancy of room 2 to Mr St John [127]) and the 27/07/2023 (when April Clemente moved out of room 1 [123]), a total of 6 individuals were living in 34 Priors Walk. Mr Butt accepts this in his response under caution of 15/11/2023 [201]. However, he says it was unintentional and arose because of April Clemente's failure to move out as agreed.
39. The Licence permits a maximum of five persons to occupy the house (one per room) and permits only a single person household per room [96].
40. Mr Butt in submissions made much of what he said was an ambiguity in the licence which allowed a household (such as a couple) in each room, yet only allowed one person to occupy each room. The Tribunal found no such ambiguity in the licence. Whilst the Tribunal accepts that a household can comprise a couple or a family, as Mr Butt submitted, it is also satisfied a household can include a single individual. In the case of 4 Cross Path, the Tribunal found the licence was clear. There could be five separate 'households', in other words five people who were unrelated to each other (either by blood or relationship). The licence also made it clear that only one person was permitted to occupy each room [97]. In licencing matters, the local authority will usually determine the number of people who can occupy

a room based on its size, and the total number of occupiers for the property according to the facilities available.

41. We found Mr Butt in his evidence demonstrated that he was fully aware that only five people were permitted to reside in the property, even if he was confused about whether a couple could live in a room together. Therefore, he should have been fully aware that if a couple were there, one of the other rooms should be vacant. By allowing Gerald St John into the property in June 2023 before April Clemente or any of the other occupants had vacated, he would have known the licence conditions were being breached.
42. Mr Butt submitted that it was Platinum Properties Partnership or Platinum Equity Management Ltd (PEM Ltd - the partnership's management company) that should be held liable for any breach.
43. However, the Tribunal found that Mr Butt was the person who managed the HMO. He was named as the licenceholder of the HMO licence issued on 3/04/2020 [96]. Mr Butt in his response to the Council's enquiries confirmed in relation to 34 Priors Walk describes himself as the 'letting manager' although his daughter was the owner and the person who received the rent. He ticked the box confirming he was *'authorised to manage the land or arrange the letting of it under an agreement with another person with interest in the land'* [198]. It was also clear from the various messages relied on by both Mr Butt and the Council that he was actively communicating with tenants about the arrangement in the house, regarding payment of bills and the letting of individual rooms (for example [188] to [196]).
44. The Tribunal was also satisfied beyond reasonable doubt that Mr Butt had knowingly permitted the number of occupants to exceed five from 06/06/2023. This is because he granted a tenancy and allowed Mr St John to move into room 2, at a time when there were already five people living in 34 Priors Walk (April Clemente in room 1, Mr Luqman in Room 3, a couple in Room 4 and Ms Agadas in Room 5).
45. The evidence also shows that there continued to be six occupants until 27/07/2023 when April Clemente finally vacated at the end of her six-month tenancy [123]

Was there reasonable excuse?

46. Mr Butt's principle ground of appeal relates to whether a housing offence had been committed, in other words whether he had a reasonable excuse for the offence. Reasonable excuse is a complete defence to allegation that an offence has been committed (s72(5) of the 2004 Act). In summary, Mr Butt says the breach was unintentional and resulted from circumstances beyond his control. He says April Clemente agreed to move to 4 Cross Path but then failed to do so, and in the meantime, he had agreed to grant the tenancy to Gerald St John. Additionally, he relies on the difficult nature of the housing market in

Crawley at the time due to the pandemic and lack of working people looking for accommodation.

47. The Tribunal is not satisfied the breach was unintentional. The evidence shows that April Clemente had a 6-month assured shorthold tenancy agreement commencing on 29/01/2023 (expiring on 28/07/2023) [112]. Her messages show she did make enquiries about moving to 4 Cross Path in March and May 2023, as Mr Butt states [72] and [73]. However, she had not given notice to terminate her fixed term tenancy of 34 Priors Walk or given him a definite moving out date by 6/06/2023. Indeed, her message of 2/06/2023 clearly indicated that she was interested in the room at 4 Cross Path from the end of July [73]. Mr Butt would, therefore, have been aware of this fact at the time he entered into the tenancy agreement with Gerald St John, but he proceeded to allow a 6th person to move into the house.
48. The Tribunal also placed particular weight on the messages with April Clemente in June 2023 (after Mr St John had moved in) which indicate that Mr Butt also intended to find an occupier to replace her from the end of July 2023 [76]. The Tribunal infers that had enquiries not been made by the Council regarding a breach of the HMO licence, Mr Butt may well have continued to allow over occupation after April Clemente left.
49. No documentary evidence has been provided by Mr Butt to support his assertions about the difficult nature of the housing market in Crawley at the time. The evidence before the Tribunal indicates that he managed to find tenants to fill the house quite soon after the company let of 34 Priors Walk came to an end, which Mr Butt says was on 13/01/2023 [37]. The witness statements and tenancy agreements exhibited to Mr Stubbs's statement show Mr Butt managed to find 5 tenants (who occupied rooms 1, 2, 4 and 5) in late January and early February 2023.
50. Having considered the totality of the evidence the Tribunal was not satisfied that Mr Butt has demonstrated on the balance of probabilities that he had a reasonable excuse for the breach of the licence conditions. The Tribunal found the evidence indicated Mr Butt's primary concern was to maximise occupancy of the property and avoid periods when rooms were vacant, even if that meant breaching the terms of the licence.
51. The Tribunal is satisfied beyond all reasonable doubt Mr Butt committed an offence under s72(2) of the Act without reasonable excuse. As the person responsible for managing the property he knowingly permitted Gerald St John to move into the property on 6/06/2023 when his occupation resulted in the total number of occupiers in the property to exceed the permitted number (five), rather than postponing his tenancy start date.

Financial penalty

52. As to the allegations made by Mr Butt in relation to the actions of the Council in imposing a Financial Penalty rather than taking some other course of action, the Tribunal is satisfied it is appropriate to impose a financial penalty in respect of the offence committed under s72(2) of the Act. The Tribunal does not find evidence of the Council being vindictive or making a personalised attack on Mr Butt. It finds that the Council was acting in accordance with its duty to regulate the conditions in the private rented sector.
53. Given our findings set out at paragraphs [39] to [52] above and the Council's policy and the 2018 Guidance, the Tribunal did not accept either that no penalty or a lesser sanction such as a caution was appropriate. Such a step would not be adequate either in terms of its punitive effect or in acting as a deterrent more generally. The Tribunal, therefore, considered the financial penalty that was appropriate in the circumstances.
54. In doing so, the Tribunal had regard to the factors specified in the 2018 Guidance as being relevant to the level at which a financial penalty should be set (see paragraph 15 above). It also had regard to the Council's policy which guided their decision-making process in this case. The Tribunal was not bound to adopt that policy for the purposes of this appeal, but we considered it provided a sound basis for quantifying financial penalties on a reasonable, objective and consistent basis. The Tribunal, therefore, used it as a tool to assist in our own decision-making.
55. The Council's policy on civil penalties is based on the relevant factors specified in the 2018 Guidance, set out above. It confirms that in the case of a first or second offence, generally the policy of the Council was to issue a civil penalty rather than to prosecute for an offence, unless the offence was serious. The Council also provides a matrix and relevant guidance on individual offences which places particular emphasis on an assessment of the severity of the offence. Offenders holding larger portfolios of properties attract higher penalties under the policy. The seriousness of the offence is rated moderate, serious and severe.
56. The matrix and guidance set out six bands the penalty should fall into taking into account any additional aggravating or mitigating factors. The six penalty bands are as follows:

Band 1 (Moderate)	£0 - £4,999
Band 2 (Moderate)	£5,000 - £9,999
Band 3 (Serious)	£10,000 - £14,999
Band 4 (Serious)	£15,000 - £19,999
Band 5 (Severe)	£20,000 - £24,999
Band 6 (Severe)	£25,000 - £30,000

57. In the narrative regarding the individual types of offence, the Council's guidance includes a non-exhaustive list of aggravating factors.
58. The Council's policy states that a breach of a condition of a Licence is an offence of moderate severity (minimum Band 1), and the starting point for the penalty should be £1,000 [54].
59. The Tribunal accepts the breach was the first offence committed by Mr Butt that the Council had identified. The breach occurred for just over 7 weeks, and was, therefore, for a comparatively short period and was not on the most serious end of the scale.
60. In relation to the aggravating factors identified in its policy the Council has not provided any evidence regarding the condition of the property or any specific risks identified as a consequence of the overcrowding.
61. The Tribunal did not accept Mr Butt's submissions that he was blameless, or that the offence was unintentional or was the fault of the tenant April Clemente. The Tribunal finds he had no reasonable excuse for his actions for the reasons set out above.
62. The Tribunal found Mr Butt to be personally culpable. The Tribunal did not accept his submission that Platinum Properties Partnership or PEM Ltd should be held liable. Mr Butt knew he was the licence holder as he had applied for it in 2020 and his name was on the licence. No application had been made to vary the licence holder to PEM Ltd.
63. Mr Butt described himself as the '*letting manager*' [198] and the evidence shows he was the one who was actively engaged in the process of letting rooms at the property. He was the one who arranged viewings with potential tenants, signed the tenancy agreements, took the deposits and agreed the move in date. He also appeared to deal with day-to-day management of the property, including liaising with the tenants regarding payments of 'excess charges' for bills. He was the one who had personally negotiated the arrangements to let room 2 to Mr St John and agreed to him moving in before April Clemente had moved out.
64. No direct evidence has been produced by the Council regarding any harm caused by the overcrowding. However, it is clear from Mr Stubbs' evidence that tenants at 4 Cross Path (the other property managed by Mr Butt) had raised concerns at the number of tenants, which had led to his investigations [90]
65. In this property the floor plan [105] shows that there was only one shower room, one toilet and one kitchen. This meant that for a period of nearly two months, six people who were unrelated (save for the couple in room 4) had to share facilities only deemed sufficient for five.
66. The evidence also showed that this period was not the only period for when Mr Butt was aware more than the permitted number of

individuals were residing at the property. His text to the house WhatsApp group regarding the bills on 23/04/2023 indicated Mr Butt was aware that seven people had been living in the property in March 2023 [188].

67. When looking at all these matters in the round, the Tribunal considered the imposition of a penalty was necessary to punish Mr Butt for his actions and deter him from future such offences. This is because the Tribunal found that by allowing over occupation he appeared not to have been taking his responsibilities as a licence holder seriously.
68. Whilst Mr Butt submits that he was being unfairly victimised and the Council, and particularly Mr Stubbs, were being 'vindictive', the Tribunal is satisfied that local housing authorities have an important role to play in improving the quality of housing conditions in the private rental sector and preventing harm resulting from overcrowding.
69. The Tribunal also finds that additional financial benefit was derived from letting the room to Gerald St John as an additional £700 per month rent was being received. This indicated the starting penalty of £1,000 was proportionate.

Aggravating and mitigating factors

70. The Tribunal found in relation to 34 Priors Walk that this was the first offence proven beyond reasonable doubt. In relation to the earlier period when he was aware seven people were in occupation [188], Mr Butt in evidence said the additional occupier (Christina) was a house guest of April. The Council has produced no further evidence of any earlier breach. Accordingly, the Tribunal found no aggravating factors.
71. Mr Butt submits there are mitigating factors; that the breach was unintentional, was caused by April Clemente's failure to move out as initially she said she would. He also claims to be an upstanding member of the community whose reputation will be damaged by a civil penalty.
72. For the reasons set out above, the Tribunal was satisfied that April Clemente had a fixed term tenancy of 6 months and was entitled to remain at the property for the full term. Whilst she might have made enquiries about moving elsewhere, by the time Gerald St John was granted a tenancy on 6/06/2023, April Clemente had not given formal notice that she would be ending her tenancy before the end of the fixed term. Simply making enquiries about moving to another property did not entitle Mr Butt to make assumptions about when her room would be vacant.
73. On balance, the Tribunal found Mr Butt's actions were more likely than not to be motivated by the desire to maximise rental income and ensure minimal void periods with little thought regarding the obligation to comply with the conditions of his HMO licence.

74. However, the Tribunal did find, as a mitigating factor that Mr Butt had co-operated fully with the Council and without delay. He had responded to their questions and provided the documents requested of him.
75. Having considered all these matters in the round, the Tribunal considers there is no reason to exceed the level of penalty identified as the starting point in the Council's policy and that a financial penalty of £1,000 for this first offence is proportionate.

DECISION

76. The Tribunal confirms the Final Notice issued by Crawley Borough Council ('the Council') dated 20/03/2024 imposing a financial penalty on Mr Nassir Butt of £1,000 under s249A of the Housing Act 2004, for an offence under s72(2).

Signed: Judge RE Cooper

Date: 31/12/2024

Note: Appeals

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office that has been dealing with the case.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision, and should be sent by email to rpsouthern@justice.gov.uk.
3. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.